

## MINUTES

(Subject to Approval of the Committee)

### PROPERTY TAX INTERIM COMMITTEE

October 29, 2008

Boise, Idaho

**Cochairman Brad Little** called the meeting to order at 9:30 a.m. Members present were: Senators Brad Little, Lee Heinrich, Jim Hammond and David Langhorst, and Representatives were: Cochairman Jim Clark, Lynn Luker, Raul Labrador, Frank Henderson, Bill Killen and George Sayler. Those absent and excused were Senators: Tim Corder, Jeff Siddoway, Elliot Werk and Representative Scott Bedke. Legislative Services staff present were Eric Milstead and Twyla Melton.

Others present were: Valencia Bilyeu, Boise City Attorney's Office; Brent Davis, City of Boise; Teresa Molitor, Jim Cook and Ernesto Sanchez, Idaho Legal Aid Services; Molly Huskey, Idaho State Appellate Public Defender; Randy Nelson, Associated Taxpayers of Idaho; Ken Harward, Association of Idaho Cities; Benjamin Davenport, Evans Keane; Dan Chadwick and Sharon Burke, Idaho Association of Counties; Dave Navarro, Ada County Clerk; and Patti Tobias, Administrative Director of the Courts.

NOTE: All copies of presentations, reference materials, and handouts will be on file at the Legislative Services Office (LSO).

**Senator Heinrich moved to accept the September 29, 2008 minutes as written. Cochairman Clark seconded the motion. The motion carried by unanimous voice vote.**

**Cochairman Little** asked that all committee members review their notes and bring forth any relevant discussions since this will be the last meeting for this committee.

**Teresa Molitor**, Centra, on behalf of Idaho Legal Aid Services, (Legal Aid) presented an overview, along with members of Legal Aid, about the services they provided. The speakers this morning will seek to educate the Legislature about Legal Aid with the ultimate goal of obtaining an appropriation from the state. The need for legal services for low-income citizens grows as the economic picture declines. Idaho is one of three states in the country that does not provide either a state appropriation or use a combination of other income sources to help legal services non-profits. **Ms. Molitor** referred to a chart that reflected a state-by-state breakdown of funding mechanisms.

**Ernesto Sanchez**, Executive Director, Idaho Legal Aid Services outlined the scope of services provided by Legal Aid. A fact sheet was provided to each committee member outlining what

Legal Aid is, location of offices, staffing, services, funding, salaries, and the benefits to Idaho. Legal Aid is governed by a 19 member board of directors, 12 of whom are appointed by local bar associations and the Idaho State Bar Association and seven client members appointed by organizations that serve low-income persons. The organization's website provides community educational materials and online legal aid. Legal Aid can only serve about 20% of the low-income legal needs of the state, so priorities have been made as to what they can do. The main focus is domestic violence cases. Domestic violence is a problem that exists throughout the state and continues to grow. Legal Aid also assists many seniors with Medicaid, Social Security, wills and other issues facing the elderly.

Sixty percent of Legal Aid's funding comes from the Legal Services Corporation, a national nonprofit corporation incorporated in Washington, D.C., which receives direct appropriations from Congress. Funding for Legal Aid also comes from the Department of Justice, the Area Agency on Aging, various foundations, the United Way and other entities. The organization does not provide services to undocumented workers except in extreme domestic violence cases. Also, Legal Aid does not represent prisoners, handle class actions, nor do they do any criminal cases except in some misdemeanor cases.

**Jim Cook**, Deputy Director, Idaho Legal Aid Services, continued the overview focusing on statistics and the return on investment. **Mr. Cook** approached this subject from the perspective of how the services Legal Aid provides affects property taxes. A handout, *Selected 2007 Return On Investment Statistics*, contained the information used for the discussion. There was also a district by district specific breakdown that was distributed to each committee member relative to that member's district. Different services are provided for different districts. There are two service areas where financial benefits can be quantified to the state of Idaho and to the clients: 1) Domestic violence which are civil cases that are protection orders, divorces, custody cases and modification cases; and 2) Social Security cases which relate to federal income brought into the state through the Supplemental Securing Income Program (SSI) and the Social Security Disability Insurance Program (SSDI).

Legal Aid attorneys won 295 domestic violence cases in 2007 benefitting 667 children. The noncustodial parent was required to pay \$287 in child care resulting in a benefit of \$1,015,980. Where a parent was required to contribute to health insurance resulted in contributions of \$141,120 and those children affected would not be on the Medicaid program. The third area was day care costs where the awards amounted to \$117,600. The total benefit to Idaho taxpayers was \$1,274,700. Where those payments are being made, the counties and state do not have to provide those services.

**Representative Killen** asked if there was any information on how effective the collection is. **Mr. Cook** responded that there was a huge rate of noncompliance. It is much easier to get payment on a child support calculation than on the medical and day care.

Much of Legal Aid's work could not be quantified, such as helping a senior with a scam, or the

division of marital assets and debts. Referring to the effect on property tax for domestic violence cases, law enforcement gets called out, there is more use for ambulances, emergency rooms, crisis groups; all these people get involved that tend to be county funded which means property tax funded. If Legal Aid can get involved and provide stability in the long term, those services are not required as much.

**Mr. Cook** addressed their involvement with Social Security. These cases are not handled in all offices, only those where the private bar is either nonexistent or where private counsel will not take the case. Last year Legal Aid successfully got SSDI for 100 clients who will stay on this benefit for life at \$603 per month resulting in an estimated \$2.1 million federal dollars brought into the state. In addition, the recipients were less likely to use county and state provided assistance services. In all cases, the projections are very conservative. Legal Aid does not handle many SSDI cases, private attorneys generally handle them and only the ones they do not take come to Legal Aid for assistance. They served 18 clients in 2007 resulting in \$518,400 in federal funds infused into the state. In 2006, the total financial benefit attributable to Legal Aid was \$3.8 million and \$3.9 million in 2007. The annual administrative costs for Legal Aid is \$2.3 million. Taking into consideration the additional services provided, they think they do provide a high return to the people of Idaho for the services they provide and hopefully do help reduce the burden of property tax.

**Representative Luker** asked if Legal Aid collected fees on Social Security work. If the private bar takes those cases, it is on a contingency basis. **Mr. Cook** said that they could not, by law, request attorney's fees.

**Representative Henderson** asked about Medicaid and long-term care where assets must be pledged to cover the cost. "How is that pledge collected to repay the state?" **Mr. Cook** responded that the Department of Health and Welfare handles the collections through the Medicaid Estate Recovery Unit. The Department gets the applicants and sends them to Legal Aid for the proper agreements. Legal Aid does that legal work for free and the state relies on that to get these people qualified for nursing home care or assisted living situations; in reality, they subsidize the state.

**Cochairman Little** requested that more information be brought forward regarding code problems, as well as financial needs, so the Legislature could better address these issues.

**Cochairman Little** opened up the question of sufficiency of public defenders in Idaho and referred to a Montana case. There is a possibility for a similar case in Idaho and he asked if Legal Aid could help in the sufficiency of counsel in these rural areas. **Mr. Cook** said that particular case in Montana is a criminal case and they could not be involved.

**Representative Killen** referred to the Supreme Court forms that are available online, asking if that fit in with the court services that are provided. **Mr. Cook** answered that they applied for competitive grants from Legal Services Corporation to get funds to link Supreme Court Group

Forms to document automation. **Mr. Cook** gave an outline of how the Legal Aid website works and interacts with the Supreme Court website.

The next item on the agenda was an overview of the progress of the *Public Defender Study* by **Molly J. Huskey**, Idaho State Appellate Public Defender. The Public Defender Office was created in 1998 because there was a concern that there was inconsistency in how potential death penalty cases were handled due to the availability (in larger counties) or the unavailability (in smaller counties) of resources to defend or prosecute the case. Their office was created as part of the Capital Crimes Defense Fund which is an insurance program that 43 of the 44 counties pay into. The fund can be accessed to help defray the cost of defending a death penalty case. The Public Defender Office represents convicted felons in noncapital appeals i.e., the direct appeals from noncapital appeals for any kind of felony crime, from post-conviction cases, which is a challenge made following the conviction, to performance of their attorney, and also appeals from state habeas cases which are cases challenging the conditions of confinement. At this time they have five death penalty cases and 639 noncapital felony cases with a staff of 21 and a budget of \$2.3 million.

**Ms. Huskey** said their office looked at “what are the national standards for public defender offices.” These are national standards for trial and appellate offices. In 2005, they commissioned an audit of their office which was performed by The National Legal Aid Defender Organization to determine if they were meeting the ten principles of a public defense delivery system which are listed on Appendix B of the *American Bar Association* handout (on file at LSO). The general consensus was that they were meeting the standards. There were some items that were not met but, generally, those were outside their control. One issue was lack of resource parity with their counterparts in the Attorney General’s office. Ms. Huskey also noted that the Governor has asked the Criminal Justice Commission to review the whole criminal justice system. They engaged the same entity to do a study of the Idaho Public Defender and Indigent Defense Delivery System. Funding for the study is coming from grants and federal money and not from Idaho taxpayers. That study is in progress and should be completed in January and released in March. The study looked at the juvenile system as well as the adult system.

**Ms. Huskey** could only touch on some of the preliminary findings of the study. What has been found is the vast disparity in services being offered throughout the state. That is supported by the funding information provided to this Committee by all the various counties. There are large differences in money spent per capita and money available in different locations. The study also indicated a lack of uniform standards; for instance, income requirements to qualify for a public defender differ across the state. The study identified the following items that could be addressed:

- Identify the strengths of the system;
- Identify the weaknesses of the system;
- Identify ways to fix those weaknesses;
- Set up oversight and standards for attorneys; and
- Identify areas that need more in-depth study.

There are many different models for successful public defender delivery systems that can be used to fit needs of the counties. Montana's current system could be used as an example because Montana is similar in economics, demographics, few urban areas and the majority is rural and sparsely populated. Montana overhauled their public defender system as a result of a class action lawsuit. It is better to be proactive and get to manage whatever change that is created than to have the change forced upon the state. That presupposes that there is some change needed. The study will help identify those changes. **Ms. Huskey** suggested that whatever changes are made, the national standards should be used as general guidelines that can be altered to meet the needs of the city, county or state. The standards are time tested and have been applied in many other states.

**Ms. Huskey** emphasized the need to include the juvenile system and apply the ten principles of a juvenile system as well. Reaching kids early will keep them out of the adult system. If there is not a mentor system or good training for the attorneys, a lot of things are missed in the juvenile system. The current system uses the juvenile area as a training ground and usually the attorneys go there as a starting place and move up, this causing lots of turnover. There are very few locations that have dedicated prosecutors and public defenders to take kids through the system. There should be particular interest in the juvenile system to divert kids to keep them out of the adult system. There should be rules about investigations or caseloads and that doesn't mean it should be the same for all locations. There is a balance between funding, staff, and number of cases when, by law, there is a requirement to meet the needs of the clients.

**Representative Killen** opened the question of the discretion of the trial courts as to whether jail time was to be set or not and if an attorney was needed. **Ms. Huskey** responded that was done in some counties but she had some personal reservations about the policy. It takes away some prosecutorial discretion because the prosecutors are prosecuting crimes that they may think should get some jail time attached, and that practice impacts their ability to interact with their constituents. It creates difficulty because the judge may not have all the information at the beginning of the trial, and as more information comes forward, it is obvious jail time may be appropriate. The charges could possibly be dismissed because of constitutional violations that were created.

**Representative Labrador** questioned the comment that not enough people are getting assigned counsel and his experience is that too many people are getting assigned counsel. People who can afford lawyers are getting a public defender, if they ask. **Ms. Huskey** said that the study indicated there was a disparity in who does and who does not get counsel. The average cost of getting a good defense attorney for a "garden type variety" case is between \$10,000-\$15,000. In these economic times, most people do not have that kind of money to pay, which doesn't mean they shouldn't pay. District courts sometimes have defendants pay a percentage of public defender fees. **Representative Labrador** stated that the \$35/hr for a public attorney is not the total cost. A private attorney may be charging \$125/hr but he is not making that much because of the cost of maintaining an office. The cost to the state is the same. **Ms. Huskey** suggested that the Committee look at that to determine whether costs are similar.

**Cochairman Little** asked if there was a standard rule about what percent the client picks up or if it was up to discretion of the judge. **Ms. Huskey** answered that it was up to the discretion of the judge. It may be appropriate in some instances and not in others. **Cochairman Little** followed up asking if there were the right incentives/disincentives in place to have a system that would recognize the ability to pay as the trial progresses. **Ms. Huskey** responded that *Gideon vs. Wainwright* held that counsel has to be provided at public expense if the person is indigent. Once the individual is declared indigent, it is difficult to require them to reimburse the cost. **Cochairman Little** asked what *Wainwright* says about an individual who claims to be indigent and during the trial process is found not to be. **Ms. Huskey** said that *Wainwright* would not apply because they wouldn't be indigent. If they were not truthful on the affidavit, that would be a perjury charge and would require reimbursement.

**Dan Chadwick**, IAC, noted that it would likely be appropriate to have a uniform method in place to determine indigence. There is not a uniform methodology to determine indigence right now. In some cases the judge will use the indigent application for medical care and in others there is no standard and he/she just approves it. There needs to be a uniform process the courts can use to determine indigence.

**Patti Tobias**, Administrative Director of the Courts, said that there are some national studies recently published as to the appointment of process and this is an area everyone needs to look at, not just the judiciary. The counties would have to provide funding, and there would be a need for screeners and staff to verify applications. This is an area the Legislature could take action on. The *Brennan Center Study* came out with the following guidelines:

- Screen people seeking appointment of counsel to ensure financial eligibility;
- Apply screening criteria and process these uniformly;
- Ensure that screening is performed by someone without a conflict of interest;
- Ensure that counsel is provided to those unable to afford it;
- Streamline screening to speed up the process and save money; and
- Ensure that the required procedural protections are in place.

Those guidelines are a good starting place for the Legislature to look at and to proceed.

**Representative Labrador** asked if some states were using a guideline or standard for what indigence means. **Ms. Huskey** responded "yes." She added that, generally, they look at the federal poverty level; that is the traditional guideline. **Cochairman Little** drew attention to the difference in the poverty level between areas, for instance Carey and Sun Valley, the poverty level between the two is probably very broad within the same county.

**Representative Luker** inquired if there were any Supreme Court decisions that set standards for establishing indigence **Ms. Huskey** answered "no." She said that the Supreme Court has left that to the states.

**Representative Henderson** commented that almost every county has a competent department that determines indigence; that determination is based upon statutes that are guidelines. There are blatant discrepancies between funding for prosecuting attorneys and public defenders and allocations for adequate defense leaves counties open for an inordinate amount of appeals. He asked if the adoption of standards where public defenders would become certified would reduce the exposure of counties to appeals and, therefore, reduce costs. **Ms. Huskey's** answer was: "Probably not. In Idaho, clients have a statutory right to a first appeal so typically, most cases are challenging the length of the sentence which has nothing to do with the competency of counsel. If it were post-conviction, which comes after that challenge, then the answer would be yes."

**Senator Heinrich** asked if there is a study that gives a comparative analysis of the money spent prosecuting these cases versus that spent defending the cases. **Ms. Huskey** responded: "Not to my knowledge. Similar information was gathered several years ago that showed there was a disparity. The prosecutors have more resources because they have access to police, investigators, state labs, and so they have access to expertise that the defense has to hire. The public defender has to justify hiring all of these people because of the obligation to do a separate investigation."

**Representative Killen** stated that from his experience as a contract public defender in Valley County, they never had the resources even though the statute says they should. Those public departments were viewed as arms of the prosecution.

**Mr. Chadwick** noted that, pursuant to Idaho Code, if there is an office of public defender in a county, so far as is possible, the compensation paid to such public defender shall not be less than the compensation paid to the county prosecutor for that portion of his practice devoted to criminal law.

**Mr. Chadwick** distributed copies of a PowerPoint presentation and a summary of the Montana Public Defender Act (on file at LSO). The Montana case, *White et. al. vs. Martz et. al.*, challenged the conduct of the operation of the defender system in the state of Montana. In response to the filed complaint, the Montana Legislature revised the state's public defender law. The Montana law includes the following elements:

- Creation of a state office of public defender with a governing commission and employees of the state office; or
- Regional offices or contract services;
- Uniform Standards;
- Contract cannot be awarded strictly based on price;
- Standard indigent determination;
- State assumed responsibility of funding with some contribution from the counties and cities.

**Representative Labrador** stated a concern about the state assuming responsibility. He said Canyon County has one of the best public defender systems in the state and some of the best criminal defense attorneys in Idaho practice in that office. If Idaho should go to a state-funded

system, Canyon County's cost will triple because they have been able to do good work in an efficient way because they go to a low-bid contract and still make good money because of efficiency. The concern is less representation at more cost. **Mr. Chadwick** stated that was an issue and concern in Montana as well.

**Senator Langhorst** said the slide showed that this would more than double the cost, asking: "Will it cost the state twice as much?" **Mr. Chadwick** responded that it would; however, it would be the Legislature's determination as to what the public defender system would look like and what happens in terms of any legal action that may be filed that challenges the effective assistance of defendant counsel.

**Cochairman Little** asked what the State Bar does in relation to statewide standards, qualifications, and the training of an attorney. **Mr. Chadwick** answered that the State Bar licenses attorneys under licensing standards. They don't license public defenders or prosecutors, only attorneys.

**Mr. Chadwick** recommended reviewing several Idaho statutes under chapter 8, title 19, Idaho Code. These statutes include: when counsel is required to be appointed, what some of the basic standards are to determine a needy person, client reimbursement, capital crimes defense fund, and state appellate public defender. There are also some court rules that could be reviewed.

**Ms. Tobias** responded to a Committee request to determine district court costs in three particular areas and present recommendations about the court's willingness to assume any such responsibilities and look for efficiencies. The three areas were law clerks, jury staff, and court interpreters (Handout on file at LSO). With certain qualifications, the Supreme Court was willing to assume such responsibilities for certain district court personnel and expenses. The first priority would be law clerks. **Ms. Tobias** outlined some of the steps that would have to be taken to make the changes in these different areas such as refining costs, preparing fiscal impact statements for each fiscal year, and amending Idaho Code. This would apply to law clerks and court interpreters. In the area of jury staff, that responsibility would be left to the counties but the per diem costs could go to the Supreme Court. Cost projections were included in the handout.

**Representative Labrador** reiterated that it will increase the costs when paid by the state. **Ms. Tobias** responded that is only because it sets up consistent salary and benefit schedules. Currently, the state does not pay for law clerks, so the state would pay a little bit more than what the counties pay, but there may be efficiencies where those law clerks could be made available for other areas, develop workload standards, or other efficiencies that could be gained. **Cochairman Little** noted that Blaine County is an exception and if it was treated like salary-based apportionment, a certain amount of money would be set by the state but the county would have the authority to pay an additional amount if they chose to do so. That would be paid from local property taxes. This would help them remain competitive in their area. **Ms. Tobias** noted that there are many different ways to approach this issue. There would be some differences in what the counties are paying and what the state would pay to bring them over to a state employee

salary, but that may be in the benefit area.

**Representative Luker** asked if there would be any practical difference in the methods of hiring and supervision of these three categories if they were shifted over to the court. **Ms. Tobias** stated there would be differences, but that is still to be worked out. The hiring would still be local, and supervision would be local within the district which is pretty standard, so there shouldn't be too many changes.

**Mr. Chadwick** provided the counties' answer regarding extraordinary criminal case costs and how to deal with those cases that don't rise to the level of a death penalty case. He asked how do you pay for those and is there some opportunity for the state to support the prosecution and defense of those kinds of cases which would affect property taxes. One concept would create a fund similar to the Capital Crimes Defense Fund where the county is fully funded. In the case of extraordinary criminal case costs circumstance, it is recommended that the funding come from both the state and the counties. **Mr. Chadwick** reviewed the issues that would define an extraordinary case and how the funding would be used. To give property tax relief, there must be some infusion from the state. Contributions from the counties should be mandatory. The board/commission that reviews the cases where this funding would apply should be comprised of representatives from the county and the state executive and judicial branches. In conclusion, the counties fully support the law clerk issue, this issue, and the public defender issue also warranted attention.

**Cochairman Clark** inquired about the kind of costs that would be incurred. **Mr. Chadwick** related that he did not know what the actual costs were. As an example, the Legislature would make a call as to the initial seed money and could appropriate a certain amount with the remaining amount coming from the counties; then there would be a fund established. That would be the initial costs, plus the costs of operating the system. **Cochairman Clark** asked for an RS that creates the "box" to do this. **Mr. Chadwick** agreed to create the RS and have it ready at a time the Committee indicates.

**Cochairman Little** asked if there would be a board to apportion the money out and could the same board do both the capital crime fund and this fund. **Mr. Chadwick** said the RS could be drafted that way.

**Sharon Burke**, IAC, discussed possible property tax relief opportunities. The court cost survey showed that \$120 million was the cost for the courts and the juvenile and adult criminal justice systems. A pie chart gave an overview of where the revenues came from for this system. There were two spreadsheets that showed what the expected property tax relief would be. In the case of law clerks, assuming the state will take over that function, the property tax benefits would be directly related to how much the county is paying for that function. Law clerks are not a large amount, so it may not be so much a savings to property taxes as efficiencies in other areas.

**Cochairman Little** asked if a judge was from one county and went to another county for a case,

where would the funding come from for the law clerk associated with that judge. **Ms. Burke** said that currently, the cost is spread over what the counties are contributing for that district's law clerk although there are some places that the county did not report because the cost was based on other activities. **Ms. Tobias** stated that each district does it a little differently, but they set up a pro rata share depending upon the resident chambers of the judge; it is determined by caseload or population. **Cochairman Little** added that the court administrator from the district starts the process and then they have to go to the county commissioners for approval. **Ms. Tobias** concurred.

**Representative Luker** referred to the spreadsheet saying that the ten counties that showed zero contribution didn't mean no contribution, only that there was no information or it was negligible. **Ms. Burke** said that was the assumption.

**Senator Heinrich** commented that it is worked on an apportionment or distribution and that varies.

**Ms. Burke** continued with the next spreadsheet based on the public defender system using the same process, just using those costs reported for public defenders. If the state assumed the costs for the public defender system, these are the kinds of property tax relief that would be seen on a county by county basis. An interactive spreadsheet has been created by **Dave Navarro**, Ada County Clerk, that allows one to put in a hypothetical number to say "if you were to provide this amount of relief to the counties, what would the property tax benefit be?" That can be used to determine what assumptions need to be made to get property tax relief. (Chart/Spreadsheets on file at LSO.)

**Ms. Tobias** opened discussion on the Collections Study Proposal and provided updates to questions from prior meetings. As discussed in prior meetings, Idaho is one of two states that has been asked by the Council of State Governments (CSG) to be a learning site regarding how collection practices are handled, not only within the courts, but also with other entities of state and county government. They have prepared various analyses which will be available at a pending meeting. **Ms. Tobias** asked if they could do a more in-depth study and the result of that request was presented in the form of a resolution. Idaho is doing well but can do better. The CSG has the expertise and is willing to do this type of study. They need more details as to what the Legislature would want before they could provide the pricing for the study. If it is the desire of this Committee to develop that study, **Mr. Milstead and Ms. Tobias** could work with the Council to get the pricing.

**Representative Killen** stated that this proposal seems to be broader than just the courts. **Ms. Tobias** said that was the recommendation. What has been learned through their study is that only part of the debt goes through the court. There are other debts that defendants incur that are related to a particular case and there is no priority of payments. **Representative Killen** asked if this would apply in the case of income taxes. **Ms. Tobias** stated the scope would be criminal defendants total costs arising out of a case, not just debts owing to the courts. Income tax

collection was not included.

**Cochairman Little** asked if this would be a large national collection agency or a state collection agency. **Ms. Tobias** said that would have to be determined, depending on the model that was used. There would be recommendations made as a result of the study that would broaden the perspective for the Committee. **Cochairman Little** inquired if the Committee made a recommendation today, would **Ms. Tobias** come back and tell the Committee how much it would cost. **Ms. Tobias** agreed.

**Senator Hammond** commented that there is obviously some general good about this issue and the study. Everyone benefits from the court system and should contribute to it; however, a substantial amount of the cost should be paid for by the users regardless of how they came to be there. "Would this study look at that issue?" **Ms. Tobias** said part of the work of the CSG is to address that issue. What should be the responsibility of the defendant for this kind of crime and what is just the cost of good government. That will be articulated as a policy for the Legislature to determine what kind of principles should be applied.

**Ms. Tobias** continued with questions from prior meetings. One question related to a summary of fees assessed presented at an earlier meeting and **Senator Heinrich's** question about increasing those fees; have they been updated or adjusted lately. The handout gave the history of the code, the origination, and changes in court fees for civil and criminal cases. The cost of inflation was not on this report but is available for specific fees.

**Senator Heinrich** commented that the marriage fee has been \$5.00 since its inception in 1877. **Ms. Tobias** pointed out that is a place that could be looked at for a source of revenue.

**Cochairman Clark** provided an update on the Guardianship/Conservatorship Pilot Project Fund Fee on p.10-11. That fee has a sunset of July 1, 2009 and the balance of \$235,000 left in that fund will go back to the General Fund. **Ms. Tobias** stated that the Idaho courts will likely come to the Judiciary Committee with a proposal to extend the pilot project and expand it to a statewide project.

**Ms. Tobias** talked about the last report on p.16 in response to a question by **Representative Killen** relating to the average cost per filing for the year 2007. **Ms. Tobias** explained the basis of the estimated cost calculations for one example from each of the seven districts. The results showed that the larger counties had a lower cost per case because they can have greater efficiencies. The smaller counties have a base cost for minimum infrastructure. There are some limitations to the report, for example, state expenses are not included. Idaho has multiple funding streams, so this might not be an efficient measure. National court standards say that cost per case needs to be looked at, but that would typically be a system that is entirely state funded.

**Cochairman Little** asked for recommendations from the Committee.

**Representative Luker** stated that the **law clerks** would be beneficial, not necessarily from the property tax perspective but for efficiency.

1) Law Clerks

**Mr. Milstead** noted that the following items had been discussed by the Committee and might be included in the report:

- 2) Germane committees review the public defender report that was addressed by **Ms. Huskey** this morning to be released in March, 2009 and that discussion and review include a consideration of uniform standards for determining indigence.
- 3) Discuss efforts that the counties have gone through recording expenditures for court systems and juvenile justice system to encourage the Legislature to review that data.
- 4) Include in the report that the Legislature review the recommendations of the Supreme Court's Administrative Conference Committee of October 24, 2008 presented by **Ms. Tobias** where the court is willing to assume responsibility for designated court personnel.
- 5) **Cochairman Clark** asked **Mr. Chadwick** to draft an RS regarding expenditures on extraordinary criminal cases and that the germane committees consider that RS.
- 6) Regarding the collection studies, **Ms. Tobias and Mr. Milstead** will work up the scope and dollar amount for consideration. **Cochairman Little** requested a review to see if Idaho is complying with the best practices and most efficient procedures to improve collections.

**Senator Langhorst** agreed with this item and said that the Committee has uncovered the potential to increase collections.

**Cochairman Clark** stated that CSG would be a good group to do the study.

**Cochairman Little** was concerned with the "big brother" oversight issue.

**Representative Henderson** agreed with that oversight concern. Even though there is not a direct connection to the relief of property taxes, the recommendation about standardizing the basis for declaring a public defender may save significant dollars. **Cochairman Clark** commented that the last time that system was looked at was in 1984.

**Cochairman Little** said that **Mr. Milstead** will put together and send out a list for the cochairs to review; ultimately all members will sign off on a report to the Legislature. **Mr. Milstead** said he will draft a report and send it out for feedback and input.

**Senator Heinrich** stated that some of the counties have contracts with national collection agencies and that shouldn't be eliminated as one of the possibilities of a best management practice.

**Cochairman Little** stated that the theme of this meeting was how to provide constitutionally defensible defense in these instances, while allowing the current systems that are good to continue to work and to make others better.

**Representative Luker** referred to the valuation of collections and asked if that was something the Office of Performance Evaluations could look at first. **Cochairman Little** said that since the objective was to make it better, rather than have the auditors look at it; the national experts could make recommendations.

**Senator Langhorst** commented that since CSG has already selected Idaho, he asked what will be the benefit to Idaho. **Ms. Tobias** responded that Idaho is doing good work in many areas and Idaho has good data. Although a dollar amount cannot be determined, that could be expedited since they are generally acquainted with current practices and data is available. **Senator Langhorst** made a synopsis that if we are willing to buy in a little bit, we can change the scope and it would be a worthwhile effort. **Cochairman Little** said this Committee can't expend funds but it can make a recommendation and, if necessary, the Legislative Council can get involved and CSG is interested. The germane committee would then address it.

**Cochairman Little** addressed one more issue, levy caps and how that relates to the counties, cities, and judiciary. Looking at the scope of HCR 45, there may be an issue with levy caps and the Revenue and Taxation Committee will probably be interested in that problem. Given the change in market values and any kind of change for property tax relief, the levy caps will inevitably be an issue.

Both **Cochairman Little and Cochairman Clark** thanked all those participating in these meetings. Being no further business, the meeting was adjourned at 1:25 p.m.