



Proposed IAC Resolution Package

September 24-26, 2018

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IAC Resolution Process

Resources about Resolutions

When submitting a resolution, please be familiar with the following:

- (1) The IAC resolution process (attached document #1);
- (2) The new legislative format (attached document #2); and
- (3) Article VIII of the IAC by-laws (from page 9 of attached document #3).

Routes for Resolutions

For a resolution to be considered by the IAC membership, it must first be adopted by either an affiliate organization of IAC (such as IACC), an IAC district, or a standing or steering committee of IAC.

After adoption by a district or affiliate organization, the resolution will then be vetted by an IAC steering committee.

If approved by an IAC steering committee, the resolution will then be debated by the full IAC membership for formal adoption.

To Be Considered for Annual Conference:

Resolution Criteria

In order to be considered by the membership, a resolution must meet the following criteria:

- Be within the general realm and scope of county government operations; and
- Affect more than one county elected office or department; and
- Affect taxation, spending, revenue generation authority or create significant efficiencies or cost savings; and
- Be politically feasible.

Content of Resolution

To be considered, a resolution must have all of the following information and be submitted in the proper IAC resolution format (see sample resolution - attached document #2). Please note that the IAC Board and the IAC Legislative Committee have updated the information required on a resolution.

- The name of the resolution sponsor
- List of Idaho statutes affected
- List of Idaho county offices and departments affected
- The counties affected by this issue
- A concise issue statement (summary of the issue/problem)
- Relevant background information (a history of the issue, the proposals that have been put forth before, data and research)

- Proposed policy change (an explanation of your suggested solution and draft legislation, if available)
- Arguments and entities in support of your proposed policy change
- Arguments and entities against your proposed policy change
- Fiscal impact (whether there will be a fiscal impact on the state or any local governments; if so, the size of that impact; and whether there will be any cost shifting)



Environment, Energy and Land Use

Tuesday, September 25, 2018

TITLE: Noxious Weeds Cost-share Program

SPONSOR: Larry Schoen, Commissioner, Blaine County & Chairman, and EELU

STATUTES AFFECTED: Appropriations

COUNTY OFFICE (S) AFFECTED: Noxious Weeds

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Federal noxious weed cost-share funding has declined and state noxious weed cost-share funding has remained constant nominally over the last 12 years.

BACKGROUND & DATA: Counties use cost share funds to fight noxious weeds, including through CWMAs; thus, cost-share funding affects all agencies' ability to fight weeds. Though state funding has remained constant nominally for 12 years, which means it has declined in real dollar terms. Meanwhile, the number of noxious weed species, their populations and ranges continue to grow at alarming rates. County weed budgets cannot keep pace with these challenges and declining outside revenue sources worsens the funding problem.

PROPOSED POLICY: IAC will lobby for increased funding of the noxious weeds cost-share program, at the very least to bring counties level with cost-share funding—accounting both for lost federal funds and no increase in state funds--of 12 years ago.

ARGUMENTS & ENTITIES IN SUPPORT: Noxious weeds threaten to overtake farms and landscapes in counties. The problem is growing and counties, with such limited resources, are falling further and further behind. State assistance is needed due to restraints on county budgets. By keeping nominal dollars constant, Idaho is not keeping pace with the problem and is increasing the burden on counties to fight an environmental disaster that crosses all boundaries.

ARGUMENTS & ENTITIES AGAINST: Funding for noxious weeds compete with other demands on the State's budget.

FISCAL IMPACT: Increasing noxious weeds funding will impact the state budget, but no analysis has been done yet to determine the net difference between current funding and a more realistic, up-to-date funding level.

TITLE: National Flood Insurance Program (NFIP)

SPONSOR: Larry Schoen, Commissioner, Blaine County & Chairman, and EELU

STATUTES AFFECTED: IC 46-1021(1) & 46-1022

COUNTY OFFICE(S) AFFECTED: Commissioners, Land Use/Planning & Zoning

COUNTIES AFFECTED: All counties with properties covered by flood insurance through the National Flood Insurance Program.

ISSUE/PROBLEM: Idaho Statutes are at odds with federal regulations as administered by the Federal Emergency Management Agency (FEMA) concerning development in floodplains. FEMA has stated clearly it will terminate Idaho's participation in the NFIP—statewide—if this conflict is not resolved.

BACKGROUND & DATA: Idaho Code exempts or prohibits from permitting the operation, cleaning, maintenance and repair of irrigation or drainage structures located in a mapped 100-year floodplain, or floodway. Federal regulations (44 CFR §§ 59-78) define such activities as "development" and require that all development in a floodway or special flood hazard area must be permitted. Idaho property owners are eligible to participate in the NFIP. Participation means state and local compliance with the program.

A "working group" representing water users, federal, and state, county and city officials has been meeting for over a year to resolve this conflict. Recently, a "guidance document" was agreed among the parties. This guidance document is not law, nor has it been adopted into Idaho administrative rules, nor does it eliminate the inherent conflict between state law and federal regulations. If water users refuse to comply with it, it will be extremely difficult, if not impossible, for local jurisdictions to enforce and by turns, to comply with the NFIP. The simplest—but still controversial--fix is to amend Idaho Code.

If Idaho is kicked out of the NFIP, thousands of Idaho property owners across the state will be unable to obtain flood insurance from the NFIP. This would have a catastrophic effect on local property values and economies in those communities, as well as the personal finances and ability to own property of property owners requiring flood insurance.

PROPOSED POLICY: IAC will participate actively in the "working group," with the end goal of ensuring that Idaho remains compliant with the NFIP. IAC will support amending, or if necessary, eliminating the non-compliant sections of Idaho Code.

ARGUMENTS & ENTITIES IN SUPPORT: No-one in Idaho disagrees with the importance of remaining in the NFIP. This is a federal program. Idaho must follow federal guidelines in order to participate. Straightforward procedures can be developed to handle most of the permits in question at the federal, state and local levels relatively easily, usually administratively, without a need for extensive review or public hearings. Many of the activities are routine and change little

from season to season, year to year. With further discussion, some of them may be determined not to need permits.

ARGUMENTS & ENTITIES AGAINST: This issue is nothing more than federal overreach. FEMA should back down from its threats. Some of these activities have no impact on floodway or floodplain flows or water surface elevations. Water users don't have time to obtain permits every time a head gate needs to be repaired or cleaned.

FISCAL IMPACT: Some additional permitting activity will occur in counties. This may require more staff time, or even training. Demand on state resources also may increase. NFIP compliance also will protect property values, local economies and guard against what could be devastating financial impacts to property owners requiring flood insurance.



Health and Human Services

Tuesday, September 25, 2018

HHS-01

TITLE: Regional Behavioral Health by-law modification

SPONSOR: IAC District II, Tom Lamar, Latah County Commissioner

STATUTES AFFECTED: 39-3134

COUNTY OFFICE (S) AFFECTED: Board of County Commissioners

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Idaho Code 39-3134 mandates that the appointing authority of the regional Behavioral Health Boards includes “one chair of a board of County Commissioners of a county situated within the region”.

BACKGROUND & DATA: This law was enacted during the 2018 session, so it is a new issue.

PROPOSED POLICY: We are proposing that the requirement allows for one member of a board of County Commissioners currently serving on the Behavioral Health Board to be included on the appointing authority (and removes the requirement that the Commissioner be a chair of their board).

ARGUMENTS & ENTITIES IN SUPPORT: Currently there are three County Commissioners on each Regional Behavioral Health Board. It is very possible that none of those Commissioners also serve as the chair of their boards, so the requirement potentially requires a fourth commissioner to be engaged in the Behavioral Health Board (even though they may not be a member. By removing the chair requirement, it allows any of those three Commissioners who are currently engaged as board members to serve in the appointing authority role.

ARGUMENTS & ENTITIES AGAINST: Probably just an overlooked error.

FISCAL IMPACT: None

TITLE: Sheriff's Duty to Provide Medical Care

SPONSOR: Idaho Sheriff's Association; Ada County Sheriff's Office

STATUTES AFFECTED: Section 20-612, Idaho Code

COUNTY OFFICE (S) AFFECTED: Sheriff and Board of County Commissioners

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: In *St. Alphonsus Regional Medical Center v. Raney*, 163 Idaho 342 (2018), the Idaho Supreme Court ruled that counties are, in some cases, responsible for payment of the continuing medical bills of inmates after they have been released from the sheriff's custody. Prior to this decision, the Sheriff (and therefore the County) only had the duty to pay for medical expenses of an inmate while the inmate was actually in the sheriff's custody.

BACKGROUND & DATA: Section 20-612, Idaho Code, contains both the duty for the sheriff to care for inmates in his/her custody, and the duty of the board of county commissioners to pay for the necessary expenses incurred by the sheriff in fulfilling that duty. Back in 1993, the Idaho Supreme Court decided *St. Alphonsus Regional Medical Center v. Killeen*, 124 Idaho 197 (1993). In that case, the Court ruled that Idaho law contained an "anomaly" that allowed hospitals to recover more for medical care provided to indigent inmates than the hospital could recover for an indigent person who was not incarcerated.

In 1994, the legislature passed a bill to cure this "anomaly" by amending I.C. §§ 20-605, 20-612, and 31-3302. The Statement of Purpose of the 1994 bill stated the legislative intent of these amendments as follows: "[T]o provide that the medical expenses of a jail inmate be paid by the county at the unadjusted Medicaid rate of reimbursement.... This is the rate counties pay providers for medically indigent persons. This would make these payments consistent with other medical payments made by the counties and the state." (See 1994 Idaho Laws Ch. 362 (H.B. 752)).

However, in 2018, the Idaho Supreme Court decided *St. Alphonsus Regional Medical Center v. Raney*, 163 Idaho 342 (2018), and held that this 1994 amendment also created a duty, in some circumstances, for a county sheriff to pay for medical care of an inmate after the inmate was released from the sheriff's custody. The Court said that if an inmate is released from jail for the purposes of receiving medical care, then the county is responsible for all of the medical bills incurred after the inmate was released from custody. The Court said this obligation derived from language found in I.C. § 20-612 which says the county commissioners have to pay for costs of inmate medical care "**as provided in section 20-605, Idaho Code.**" Although the legislature said it was only adding these words to reduce the rate of compensation due to hospitals for inmate medical care, the Court has said this additionally created post-incarceration liability for some former inmate's medical bills.

The purpose of the legislative change addressed in this Resolution is to remove the phrase “**as provided in section 20-605, Idaho Code**” from I.C. 20-612 to make it clear that a sheriff will have no duty to pay for medical care of citizens who are not in the sheriff’s custody. Removal of this language will not affect the original intent of the legislature to equalize indigent reimbursement rates for indigent incarcerated and non-incarcerated persons. That topic is already sufficiently addressed in I.C. § 31-3302, which currently says, in part, that medical expenses of inmates in the county jail “shall be paid at the rate of reimbursement as provided in chapter 35, title 31, Idaho Code, unless a rate of reimbursement is otherwise established by contract or agreement.”

Without this change, sheriffs (and therefore the counties) will continue to be liable for medical bills of certain inmates after the inmate has been released from the county jail. With this change, the sheriffs (and therefore the counties) will only be responsible for providing and paying for the medical care of an inmate while the inmate is in the sheriff’s custody.

PROPOSED POLICY: The obligation of the county sheriff to provide basic medical care for inmates is a concomitant duty that arises from the fact of incarceration. Although the sheriff does have the statutory duty to house and provide basic care for inmates, there is no social policy that supports having a county sheriff also provide medical care for un-incarcerated persons. This proposed legislation would limit the sheriff’s duty to provide medical care to those inmates in the sheriff’s custody, and then only for the duration of their incarceration.

ARGUMENTS & ENTITIES IN SUPPORT:

Arguments in Support:

- 1) This bill is needed to clarify that the county sheriff is only responsible for providing medical care for inmates in the sheriff’s custody and, accordingly, that the county will not have liability for medical bills incurred after the inmate is released from the county jail. The Idaho Sheriff’s Association and all of the elected Idaho sheriffs and their county commissioners should be in strong favor of this bill.
- 2) The county indigence fund already exists to provide a source of payment for medical bills of un-incarcerated citizens. Requiring the sheriff to also assume this role is not needed.
- 3) The scope of the sheriff’s duty to pay for un-incarcerated persons is not defined. There is no guidance from the Court as to how long the county must pay for the care and nor is there a limitation on the type of injury or condition included within this duty. Under the current rule, if an inmate on a low level charge develops a serious medical condition while in jail, the hospital could demand payment of all subsequent charges for the entire duration of the treatment if the inmate is released for the purposes of receiving care.

Possible entities in support:

- 1) The Idaho Sheriff’s Association.
- 2) Stephen Bartlett, Ada County Sheriff
- 3) Other individual county sheriffs or prosecuting attorneys.

ARGUMENTS & ENTITIES AGAINST: Hospitals will claim it is not fair to the hospital when an astute prosecuting attorney representing the county causes the release of an inmate from jail for the sole purposes of avoiding medical charges. They will argue that the county should not be able to use this tactic to avoid liability for medical bills.

FISCAL IMPACT: Passage of this bill will prevent counties from increasing their budgets and raising property tax levies in response to the recent Idaho Supreme Court decision in *St. Alphonsus Regional Medical Center v. Raney*, 163 Idaho 342 (2018), which holds counties responsible for payment of the medical bills of inmates who are no longer in the sheriff's custody. With the proposed amendments, counties will continue to be responsible for the medical care of inmates who are in the custody of the sheriff, and for any obligations for non-incarcerated persons that exist under the county medical Indigency program. It is impossible to calculate the total savings to taxpayers for not having to fund a new public medical care system as directed by the Idaho Supreme Court, since the Court places no limits on this new duty. Anecdotal evidence shows that the effect of the most recent Supreme Court decision is being felt across the state and that in addition to hospitals submitting claims for treatment, criminal defendants are using this law to demand that counties pay for their post-incarceration medical care.

HHS-03

TITLE: Resolution to amend Section 56-262, Idaho Code to include a new section 52-267, Idaho Code, to provide that the state make certain persons eligible under its Medicaid Plan.

SPONSOR: Blaine County Commissioner, Jacob Greenberg, Helen Edwards, Gooding County Commissioner, Rose Bernal, Butte County Commissioner, Marshall Ralph, Camas County Commissioner

STATUTES AFFECTED: Section 56-262, Idaho Code.

COUNTY OFFICE (S) AFFECTED: Commissioners, Clerks, And Indigent Medical

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: County commissioners have expressed concern about rising Indigent Medical costs. County Indigent and the State CAT budgets are increasing. Federal funds are available to cover these expenses.

BACKGROUND & DATA: The Counties currently spend over \$18 million per year on Indigent Medical expenses.

PROPOSED POLICY: Include those persons under sixty-five (65) years of age whose modified adjusted gross income is one hundred thirty-three percent (133%) of the federal poverty level or below who are not otherwise eligible for any other coverage under the state plan.

ARGUMENTS & ENTITIES IN SUPPORT: An initiative to amend the State Medicaid plan will be on the ballot. The Idaho Department of Health and Welfare commissioned a study by Milliman, Inc. to analyze the cost impact of expanding Medicaid coverage under the Patient Protection and Affordable Care Act as a possible result of the voter-initiated ballot. The Milliman analysis shows additional State costs ranging from \$4.4 million in the third year, when the CAT and Indigent Funds are reduced by 50%, to 11.7 million per year in the year 2030 with an estimated additional 91,000 people insured. This assumes that the Indigent and CAT programs continue to be funded at an arbitrary 50% of their current level. **Additional reduction in CAT and Indigent program funding actually results in a net savings.**

Milliman Study

<https://healthandwelfare.idaho.gov/Portals/0/AboutUs/FromTheNewsroom/Impact%20of%20Medicaid%20Expansion%20for%20Idaho%2020180718%20-%20Final.pdf>

Entities in Support:

American College of Emergency Physicians – Idaho Chapter

American Heart Association

American Lung Association

Boise Metro Chamber of Commerce

DisAbility Rights Idaho/CID

Empower Idaho

Idaho Academy of Family Physicians

Idaho American Cancer Society Cancer Action Network
Idaho Association of Commerce and Industry (IACI)
Idaho Behavioral Health Alliance
Idaho Doctors and Nurses for Healthcare
Idaho Health Continuum of Care Alliance (IHCCA)
Idaho Hospital Association
Idaho Medical Association
Idaho Moms for a Brighter Future
Idaho Primary Care Association (IPCA)
Idaho Voices for Children
Reclaim Idaho
United Vision for Idaho (UVI)
United Way of the Treasure Valley and Southeast Idaho
Vituity Emergency Physicians

ARGUMENTS & ENTITIES AGAINST: Legislators who are philosophically opposed and believe federal funding will run out.

FISCAL IMPACT: This is dependent on the fate of Indigent and Catastrophic Care Programs. The current analysis considers continued funding in the amount of 50% of the current rate. In this scenario, the State will need to invest \$44.6 million in Medicaid to generate \$40.3 million in savings in the third year of implementation. The result is a net cost to taxpayers of \$4.4 million or less than \$50 per person covered per year. If the State phases out the Indigent and CAT Programs in the third year the result would be a net savings of \$15.6 million for that year. The net savings persist year after year. This is the most efficient way of addressing the coverage gap as it has the lowest administrative cost impact. One of the economic impact studies findings based on the Milliman financial forecast of the federal contributions to Medicaid expansion, shows that the net additional gross economic activity (i.e. sales) created by Federal Medicaid spending will be \$661.0 million, which in turn supports \$289.6 million in total compensation and 5,389 jobs, including the multiplier effects.

For 2021, the first full year of expansion, the tax revenues created from this increase in economic activity includes \$7.6 million in sales/excise taxes, \$4.9 million in property taxes, and \$8.2 million in personal/corporate income taxes, for a total of \$20.7 million. These include the multiplier effects (direct, indirect, and induced effects).

Overall, the Federal money returning to Idaho supports more jobs and access to healthcare and will generate an additional \$8.4 billion in cumulative economic activity through 2030 (including the multiplier effects).

Idaho Center for Fiscal Policy

<http://idahocfp.org/new/wp-content/uploads/2018/07/ICFP-Medicaid-Expansion-Fiscal-Impacts-Brief-FINAL-7-19-2018-2.pdf>



Intergovernmental Affairs

Monday, September 24, 2018

TITLE: Mail Ballot Election for March and August election dates.

SPONSOR: Kirk Chandler, Washington County Commissioner

STATUTES AFFECTED: Section 34-106, Idaho Code

COUNTY OFFICE (S) AFFECTED: County Clerk

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Low voter turnout during March and August elections.

BACKGROUND & DATA: When taxing districts hold bond and levy elections on dates in March and August, voter turnout is very low, thus allowing districts to pass bonds or levies with as little as 5% of the registered voters of the district voting. Holding elections with low voter turnout is also expensive for counties. Overall election costs could be reduced while increasing voter turnout if all elections were held in either May or November.

PROPOSED POLICY: Move to a mail ballot election for the March and August consolidated election dates.

ARGUMENTS & ENTITIES IN SUPPORT: Counties should support mail ballot elections to increase voter turnout and reduce annual election costs.

ARGUMENTS & ENTITIES AGAINST: School districts may likely oppose.

FISCAL IMPACT: There should be a net costs savings to counties as there would be fewer elections.

TITLE: Resolution to establish a county project based local option tax.

SPONSOR: Tom Dale, Canyon County Commissioner

STATUTES AFFECTED: Section 31-1008, Idaho Code

COUNTY OFFICE (S) AFFECTED: All

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Counties are mandated to provide critical public facilities like jails and courthouses yet lack the necessary funding to finance such facilities.

BACKGROUND & DATA: Many counties are facing out of date facilities, such as courthouses and overcrowded jails. The only current source of funding is either pay-as-you-go funding or general obligation bonding that utilizes property tax. General obligation bonds are approved at a super majority, which is very difficult to achieve. Pay-as-you go financing may take years to accomplish. In addition, property taxpayers are finding themselves carrying an unequal burden of the liability. Sales tax is paid by all consumers and is a fair and equal tax. Allowing a local option sales tax to fund required facilities would provide true property tax relief.

PROPOSED POLICY: Authorize counties the authority to implement a local option sales tax, up to a maximum of 1% for a specified period of time to address specific construction projects. Once the project is completed, the tax sunsets.

ARGUMENTS & ENTITIES IN SUPPORT: Counties should support a local option tax as it would provide counties with the ability to pay for public facilities without imposing a property tax. Some legislators have been supportive of local option sales tax as well.

ARGUMENTS & ENTITIES AGAINST: Counties or cities that border Oregon may lose revenue due to citizens going across the border.

FISCAL IMPACT: This resolution would create a temporary sales tax to help fund the construction of infrastructure projects. Although it is a temporary tax, this proposal could be seen as property tax relief by allowing counties and cities to avoid general obligation bonding.

TITLE: Marriage Licenses, Certificates, and Records

SPONSOR: Pam Eckhardt, Bingham County Clerk, and IACRC

STATUTES AFFECTED: IC 32-403 and IC 32-412A

COUNTY OFFICE (S) AFFECTED: County Clerks

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM:

Idaho Code 32-412A requires county recorders to provide a confidential AIDS educational pamphlet to applicants and have them fill out a form to certify that he or she has read the educational pamphlet or had it read to them.

Educational Pamphlet and Self-Administered Confidential Risk Appraisal

In 1988, the requirement for a medical examination for each applicant was removed from Idaho Code. The requirement for the county recorder to issue an education pamphlet on AIDS was added at this time. Applicants must certify that he or she has read the pamphlet by filling out a form that is kept with the marriage license application. Thirty years ago AIDS had come to the forefront as an epidemic and the Centers for Disease Control laid the groundwork for a nationwide HIV and AIDS care system. The State of Idaho implemented this educational pamphlet in response to aggressive education on the subject.

PROPOSED POLICY:

I am proposing that Idaho Code 32-412A requiring the education pamphlet and risk assessment on AIDS currently being administered by the county recorder to all applicants for marriage licenses, be removed from the duties of the county recorder.

ARGUMENTS & ENTITIES IN SUPPORT:

Hopefully all county clerks.

ARGUMENTS & ENTITIES AGAINST:

State of Idaho Vital Statistics may be opposed. I have not contacted them yet – wanted to get a consensus of the group.

FISCAL IMPACT:

None

TITLE: Mail Ballot Threshold

SPONSOR: Mary Lou, Teton County Clerk and IACRC

STATUTES AFFECTED: 34-308 and 34-1413

COUNTY OFFICE (S) AFFECTED: Clerks

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Election Consolidation has required counties to conduct all elections and now specifies what elections are held on each of the four dates. Smaller taxing district elections could be handled more efficiently if the existing mail ballot threshold were to be increased beyond the current 125 registered voters per precinct.

BACKGROUND & DATA: County clerks have the responsibility of conducting the federal, state, county and nearly every taxing district elections that are identified in Idaho Code. Currently counties are only able to designate a Mail Ballot Precinct if it has 125 or fewer registered voters.

PROPOSED POLICY: Increase the number of registered electors within a precinct, with no more than 190 registered voters, to be designated as a mail ballot precinct.

ARGUMENTS & ENTITIES IN SUPPORT: Would give the counties the flexibility of designating additional mail ballot precincts. In some rural areas voter convenience is increased thereby saving individuals from traveling to a polling place. In certain areas it is getting more difficult to get polling places and make them accessible to the public.

1. County Clerks
2. League of Women Voters
3. Groups supportive of increasing the number of people voting in elections

ARGUMENTS & ENTITIES AGAINST:

1. Individuals who would rather go to polling places for the social aspect of voting
2. Individuals opposed to voting at all by mail ballot

FISCAL IMPACT: No fiscal impact to the state of Idaho. The fiscal impact would vary between counties depending on a variety of factors such as poll worker wages and polling place rent.

TITLE: Flat Fee Recording, Adjustment to Idaho Code § 31-3205

SPONSOR: Clerk Chris Rich and Chief Deputy Phil McGrane of Ada County

STATUTES AFFECTED: Idaho Code § 31-3205

COUNTY OFFICE (S) AFFECTED: Recorder's Office

COUNTIES AFFECTED: All counties within Idaho will be affected by the proposed change.

ISSUE/PROBLEM: In July 2017, Idaho began implementing predictable fees for the four most commonly recorded documents (deed, deed of trust, power of attorney, and reconveyance). In doing this, there have been issues with incorrect charging due to miscoding, improper fees being sent, and all around confusion for both submitters and the county. In July 2018, additional language was added to help clarify some of the confusion, as well as substitution of trustee documents were assigned a predictable recording fee of \$10.00. However, there is still much confusion in regards to recording fees and what documents are coded as.

BACKGROUND & DATA: Currently, Idaho Code § 31-3205 uses a predictable fee structure for select document types. In doing this, there is now some level of predictability of fees that lenders can disclose to borrowers. However, if a document is titled differently or miscoded, fees can differ from the disclosed amount. A growing trend within recording is flat fees. This model is currently used by four states, and they have reported that the recording process has been improved with this change.

PROPOSED POLICY: The proposed change in legislation would further specify the predictive fees model currently used in Idaho by making all recording fees one flat fee.

ARGUMENTS & ENTITIES IN SUPPORT:

The most compelling arguments for the proposed legislation are:

- Reduces confusion from customers, employees, and the public on the recording fee structure.
- Eliminates page count calculations
- Reduces rejections due to improper fees, which also reduces postage costs for mailing those documents back to the client.
- Allow lenders to properly disclose recording fees as required by federal law.

Entities in support of the proposed legislation include the IACRC, County Clerks, the Property Records Industry Association (PRIA), and title companies. Additionally, this idea was supported and passed at the IACRC conference held in August 2018.

ARGUMENTS & ENTITIES AGAINST:

Potential arguments against the legislation are:

- This can be viewed by the public as recording fees are being raised, or as a raise in taxes.

At this time, there are no known entities against this proposed legislation.

FISCAL IMPACT: In the event that the proposed policy becomes law, there will be no fiscal impact on the state or any local governments. Lenders would have no additional costs assumed since recording fees are included in a borrower's closing costs. The general public would notice a slight increase in their recording fees, but they would still be reasonable and not detrimental to anyone on a limited income.

TITLE: County Employment after Retirement

SPONSOR: IAC District 4

STATUTES AFFECTED: Section 59-1356, Idaho Code

COUNTY OFFICE (S) AFFECTED: All

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: County employee retirements result in the loss of considerable institutional knowledge. Some retirees would like to continue working for the county beyond PERSI retirement but are unable to do so without impacting their PERSI retirement benefits.

BACKGROUND & DATA: Schools are allowed to hire teachers over the age of 60 having retired with PERSI benefits. This allows schools to fill needed positions with experienced teachers that wish to receive PERSI benefits while continue to work. Counties face similar challenges in filling critical positions due to retirements. Some retirees receiving PERSI benefits would like to return to work for the county but cannot because of PERSI eligibility requirements.

PROPOSED POLICY: Amend Section 59-1356, Idaho Code, to allow counties to hire back county employees after they have retired and are receiving PERSI retirement benefits.

ARGUMENTS & ENTITIES IN SUPPORT: Counties wishing to hire their retired employees receiving PERSI benefits.

ARGUMENTS & ENTITIES AGAINST: None

FISCAL IMPACT: There is no fiscal impact to counties other than costs that would otherwise be incurred in hiring an employee.

TITLE: Electronic Notices

SPONSOR: Bonneville County and Jefferson County

STATUTES AFFECTED: I.C. §60-106.

COUNTY OFFICE (S) AFFECTED: Any office that posts legal notices.

COUNTIES AFFECTED: Any county that has Internet service.

ISSUE/PROBLEM: Newspapers are no longer an effective means of communication. Newspaper circulation numbers are very low. Counties have large bills from newspapers based on their many required legal notices. The current law states that a "newspaper of (or having) general circulation shall mean the newspaper with the largest paid circulation published within any county in which the governmental entity is located." I.C. §60-106. The circulation number should be quantified today since many newspapers reach less than 5% of the population.

BACKGROUND & DATA: Legislation introduced in 2017 is below along with other data and references.

PROPOSED POLICY: Legislation introduced in 2017 is below.

ARGUMENTS & ENTITIES IN SUPPORT: Saves the taxpayers and their government agencies money. Taxpayers, city, county and Idaho State governments should all support this proposal.

ARGUMENTS & ENTITIES AGAINST: No reasonable arguments against this proposal. A newspaper's argument against this proposal would be self-serving economics. Plus, this bill would create the OPTION of using electronic publication(s), and it would not remove the newspaper route.

FISCAL IMPACT: Savings for city, county and Idaho State government. To calculate an amount saved, review what was spent in prior years for placing legal notices in a newspaper.

IN ADDITION: IAC Staff may add supporting data reflecting financial savings and also the diminishing return of publishing legal notices in newspaper.

References/Data

Newspaper print ad revenues are now the lowest they've been since 1950. Revenues are down more than 50 percent in just the past five years alone.

The Decline of Newspapers Hits a Stunning Milestone by Jordan Weissmann, www.slate.com (April 28, 2014).

The argument for electronic legal notices

Advocates of electronic legal notice have three main arguments. First is savings; a mid-sized municipality typically can spend around \$20,000 on the newspaper ads. The State of Maine spends about \$500,000 a year publishing legal notices in newspapers.

Second, advocates argue that with falling circulation, print newspapers no longer provide reach into most of the households in a community as they did several decades ago.

Third, advocates contend that electronic legal notices can be archived and later located by powerful search engines such as Google.

Finally, advocates also contend that, freed from per word pricing, an online notice can be more expansive and informative **at no extra cost**, for example, providing a link to a map of a proposed zoning change. Even having a viewing option of a satellite view.

[N]ewspapers' legal notice franchise comes under fresh pressure from cash-strapped states by Rick Edmonds, www.poynter.org (Feb. 9, 2012).

The State of Minnesota requires that a newspaper have a circulation rate of 20% of the population of a political subdivision to be qualified as a publication of legal notices.

2016 Minnesota Statutes 331A.02.01(d) Requirements For A Qualified Newspaper.

State of the News Media 2016, *Newspapers: Fact Sheet*, By Michael Barthel Pew Research Center for Journalism and Media (<http://www.journalism.org/2016/06/15/newspapers-fact-sheet/>)

For newspapers, 2015 might as well have been a recession year. Weekday circulation fell 7% and Sunday circulation fell 4%, both showing their greatest declines since 2010. At the same time, advertising revenue experienced its greatest drop since 2009, falling nearly 8% from 2014 to 2015.

In 2014, the latest year for which data is available, newsroom employment also declined 10%, more than in any other year since 2009. The newspaper workforce has shrunk by 40%, in the last 20 years. Overall the industry continues to shrink, with Editor & Publisher's DataBook listing 126 fewer daily papers in 2014 than in 2004.

Declining Audience and Readers

Weekday circulation experienced a decline not seen since the immediate aftermath of the Great Recession. Average weekday circulation fell 7% in 2015, the most since 2010.

The reliance on print among dedicated newspaper audiences is especially problematic as the portion of Americans turning to print newspapers continues to decline. The share of Americans getting news from newspaper platforms is falling behind those of most other platforms, including.

Definitions

"Electronic form" means a court record that exists as Electronic representations of text or graphic documents; *Idaho Court Administrative Rule 32(b)(6)(A)*.

"Electronic publication" means publishing in which information is distributed by means of a computer network or is produced in a format for use with a computer. *Merriam-Webster*.

The first known use of electronic publishing was in 1963. *Merriam-Webster*.

TITLE: Update Quarterly Reporting requirements

SPONSOR: Idaho Association of County Treasurers

STATUTES AFFECTED: IC31-2113

COUNTY OFFICE (S) AFFECTED: Treasurer's Office an possibly Clerk's Office

COUNTIES AFFECTED: All counties would be affected by this proposed change.

ISSUE/PROBLEM: Currently this code section requires the county treasurer to make a detailed report at every regular meeting of the board of county commissioners of his county of the moneys received, disbursements and the debts due and from the county.

BACKGROUND & DATA: In discussing this with the treasurer's they make a quarterly report of all accounts and balances and show that they are in balance with the Clerks funds. The Treasurer's office does not generally "track" the indebtedness of the county or what debts are due to the county. This is more of a function of the Clerk's office.

PROPOSED POLICY: Allow for treasurers to make a quarterly report to the board of county commissioners instead of at every regular meeting.

ARGUMENTS & ENTITIES IN SUPPORT: The Treasurer's all in support of the change to bring into line what is being done statewide.

ARGUMENTS & ENTITIES AGAINST: List potential arguments and entities against your proposed policy.

FISCAL IMPACT: There is no fiscal impact to the counties or the state with this proposed change.

TITLE: Commissioner's Relatives Employment

SPONSOR: Shoshone County

STATUTES AFFECTED: 18-1359

COUNTY OFFICE (S) AFFECTED: All

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Idaho Codes states, the county shall not employ Relatives of County Commissioners.

BACKGROUND & DATA: The Shoshone County Sheriff's Department hired an employee that was not within the second degree to the Sheriff. The Sheriff was not related to this person and he was hired as a Deputy for the Department. A complaint was filed with the Attorney General on a matter the Commissioners had approved for all employees of the county, and the complaint triggered a nepotism charge against one of the Commissioners and the Sheriff, and resulted in the Deputy resigning his position. The deputy was the Commissioner's grandson.

Idaho Code currently restricts rural counties from hiring the workforce they need. Rural counties do not have a large workforce and are having a difficult time hiring and keeping employees.

PROPOSED POLICY: Allow counties to hire relatives of commissioners as long as they do not have direct control over them and state for the record they are related when considering any matter on the employee. See draft.

ARGUMENTS & ENTITIES IN SUPPORT: This amendment would broaden the workforce base allowing counties the opportunity to find permanent employees. All counties may be in support.

ARGUMENTS & ENTITIES AGAINST:

FISCAL IMPACT: There would be no fiscal impact as counties are just trying to keep current positions filled.



Justice and Public Safety

Tuesday, September 25, 2018

TITLE: Deputy residency requirement option

SPONSOR: Boise County Sheriff

STATUTES AFFECTED: Idaho Code 44-902

COUNTY OFFICE (S) AFFECTED: Sheriff

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Although case law allows for law enforcement agencies to require that their officers reside in the jurisdiction in which they work, Idaho statute currently prohibits imposing this requirement on officers. When officers live in outside the jurisdiction in which they work, officers can sometimes adopt a “mercenary”-type perspective because they and their families do not live there. As such, officers can sometimes lack the desire to explore active problem solving within the community because they are not vested in the community. Residing elsewhere can also create some issues regarding the availability of deputies residing close by for call-out, response time, additional compensation for call-out responses, and additional wear and tear on county vehicles.

BACKGROUND & DATA:

PROPOSED POLICY: Enact legislation that gives County Sheriffs *the option* of requiring their officers to reside within the community that they work.

ARGUMENTS & ENTITIES IN SUPPORT:

Boise County Sheriff’s Office

Idaho Sheriff’s Association (not verified, but expected to be in support)

ARGUMENTS & ENTITIES AGAINST:

FISCAL IMPACT: None expected, as this legislation only creates an option for law enforcement to require their employees to reside in their jurisdiction.

TITLE: Collection of Debt Owed to the Court and Disclosure of Information for Juvenile Correction Act Cases

SPONSOR: Kristina Glascock, Twin Falls County Clerk and IACRC

STATUTES AFFECTED: 20-520 and 19-4708

COUNTY OFFICE (S) AFFECTED: Clerks

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Now that Idaho Court Administrative Rule 32(g)(9) exempts juvenile court records from disclosure, Twin Falls County has been unable to turn Juvenile Corrections Act cases to a collection agency in order to collect court-ordered fees from juvenile offenders and their parents.

BACKGROUND & DATA: In 2004, when Judge Barry Wood was the Fifth District's Administrative District Judge, we entered into a contract with a collection agency to collect debts owed to the court pursuant to I.C. 19-4708. In 2005, Judge Jack Varin, our juvenile judge, signed an order allowing disclosure of the necessary information on JCA cases to the collection agency to collect on the debt. In 2017, the Idaho Court Administrative Rule 32(g) exempted Juvenile Correction Act Cases from public disclosure.

In January 2018, Judge Wildman, Judge Borresen, Judge Dolan, and Shelli Tubbs and I met to discuss this issue. The judges determined that Idaho Code 19-4708 (which deals with contracts with collections agencies) does not apply to juveniles or JCA cases, except as provided in 20-520(3), which specifically provides for contracts for collections agencies regarding restitution. At that time, Twin Falls County stopped using a collection agency to collect juvenile fees.

PROPOSED POLICY: To allow the collection of fees in JCA cases and the disclosure of information for the purposes of collections. This would be accomplished by amended I.C. 19-4708 and I.C. 20-520.

ARGUMENTS & ENTITIES IN SUPPORT: Clerks

ARGUMENTS & ENTITIES AGAINST: Unknown

FISCAL IMPACT: In the event that the proposed policy becomes law, address 1) whether there will be a fiscal impact on the state or any local governments; 2) if so, the size of the fiscal impact; and 3) whether there will be any cost shifting.

The proposed change would not have a fiscal impact on state government, but would provide revenue to state agencies, counties and victims from these court ordered fees and restitution.

TITLE: Tax Intercept on Debt Owed to the Courts

SPONSOR: Kristina Glascock, Twin Falls County Clerk and IACRC

STATUTES AFFECTED: 1-1624

COUNTY OFFICE (S) AFFECTED: Clerks

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Clerks are unable to use tax intercept to collect on balances under \$50 leaving a lot of cases with a balance due of less than \$50. Since the implementation of Odyssey, we have started getting tax intercepts on JCA cases and we didn't with ISTARs.

BACKGROUND & DATA: Since the implementation of Odyssey, the Idaho State Tax Commission has been intercepting tax returns on JCA cases on juveniles over 18. Current statute (1-1624) only allows for the intercept on balances above \$50 and is unclear if JCA cases are to be included.

PROPOSED POLICY: To clarify that tax intercept can be applied to JCA cases and to remove 1-1624(5) allowing intercepting taxes for balances lower than \$50.

ARGUMENTS & ENTITIES IN SUPPORT: Clerks

ARGUMENTS & ENTITIES AGAINST: Unknown

FISCAL IMPACT: In the event that the proposed policy becomes law, address 1) whether there will be a fiscal impact on the state or any local governments; 2) if so, the size of the fiscal impact; and 3) whether there will be any cost shifting.

The proposed changes would not have a fiscal impact on state government. It would require a configuration change in the software, but would provide revenue to state agencies, counties and victims on debts owed to the courts.

TITLE: Pre-trial Release and Misdemeanor Probation Fees

SPONSOR: Kristina Glascock, Twin Falls County Clerk and IACRC

STATUTES AFFECTED: 31-870 and 31-3201I

COUNTY OFFICE (S) AFFECTED: Clerks

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: The Idaho Supreme Court would like to remove pre-trial release and misdemeanor probation fees associated with 31-870 from Odyssey.

BACKGROUND & DATA: An email went out from the Supreme Court indicating they would be taking 31-870 fees out of Odyssey as of July 1st. Since that time many have communicated with the Supreme Court about the fees that are being collected and the Supreme Court has decided to wait until after a review of fees has been completed.

Twin Falls County was selected as the pilot court for Odyssey. As part of this, it was agreed to have Twin Falls County Misdemeanor Probation pilot Odyssey Supervision and they would no longer use their case management system for their caseload and to collect fees. Misdemeanor Probation began using Odyssey Supervision in June 2015 for their case management software for pre-trial release and probation cases. Supreme Court Staff configured these fees in Odyssey. It was agreed by all involved, the software change to Odyssey Supervision would benefit all judicial partners and defendants to have everything a defendant owed in one system.

PROPOSED POLICY: To clarify that fees ordered pursuant to I.C. 31-870 for pre-trial release and misdemeanor probation can be assessed and collected in Odyssey and assigned priority #3 under I.C. 31-3201I

ARGUMENTS & ENTITIES IN SUPPORT: Clerks, Misdemeanor Probation

ARGUMENTS & ENTITIES AGAINST: Unknown

FISCAL IMPACT:

The proposed change would not have a fiscal impact on state government because this is currently how Odyssey is configured. If these fees are removed from Odyssey, there would be a fiscal impact to the counties to have a separate case management software to assess and collect these fees.

TITLE: Resolution providing for a state based public defender system and to provide for equalization of local and state funding.

SPONSOR: IAC Public Defense Task Force

STATUTES AFFECTED:

COUNTY OFFICE (S) AFFECTED: Commissioner, Clerk

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Public defense is a state responsibility that has been delegated to counties without sufficient funding. Counties generally lack both the funding and administrative oversight necessary to oversee public defense services.

BACKGROUND & DATA: The right to counsel is in both the Federal and State Constitutions. In Idaho, the state has delegated funding and oversight of public defense to counties. Prior to the creation of the Public Defense Commission, counties paid approximately \$21.5 million a year in public defense expenditures. After the creation of the Public Defense Commission and promulgation of rules, counties paid \$33.5 million in public defense expenditures in 2018. The state provides \$4 million in grant funding. The state has not provided adequate funding for public defense nor has it provided a solution for improved county oversight. Public defender costs are expected to increase again in 2019 with the addition of new public defender workload standards.

PROPOSED POLICY: The establishment of a state based public defender system in which the state of Idaho assumes oversight responsibility of public defense in Idaho. Counties would have the option of continuing to provide a county based public defense office should they choose to do so. For all counties, public defense spending would be capped at 2018 levels. County spending on public defense would be capped until there is funding parity between counties and the state at which point future expenses would be split 50/50. Counties for which the state provides public defense services would continue paying their local share to the state to assist in funding the state public defense system.

ARGUMENTS & ENTITIES IN SUPPORT: Most counties support a state based public defense system. It is a state responsibility.

ARGUMENTS & ENTITIES AGAINST: Legislators wishing to maintain a county-based system will likely be opposed. Some members of the Public Defense Commission have also expressed concern about transitioning from a county based public defense system to a state based public defense system. Primary concerns from the state relate to costs and creating a new state agency with new FTEs.

FISCAL IMPACT: There will be a future cost avoidance for counties. It is estimated that roll out of public defender workload standards will cost up to \$10 million. This amount, as well as future increases, would be paid by the state of Idaho.

TITLE: Justice Fund Levy Increase

SPONSOR: IAC Legislative Committee

STATUTES AFFECTED: Idaho Code 63-805

COUNTY OFFICE (S) AFFECTED: All

COUNTIES AFFECTED: All counties that have adopted a Justice Fund levy.

ISSUE/PROBLEM: The problem is that most every county has reached the top of the levy limit in the Justice Fund. In the case of Bingham County we are topped out in the levy limit and have only the Sheriff's Office in the levy. Currently Bingham County needs to add onto its jail and in order to do this we would be asking the voters for a bond. However, in looking at the levy limit, we could get the bond but would not be able to hire any new employees to work in the jail nor provide food or any other types of service for the inmates due to the restriction on the levy limit.

BACKGROUND & DATA:

PROPOSED POLICY: The proposal would be to raise the levy limit to .0025 from the .002 percent.

ARGUMENTS & ENTITIES IN SUPPORT: In order for Bingham County to be able to grow in the jail and not be overcrowded we must increase our revenue in the levy or raise the levy limit. Right now the Commissioners are putting money from PILT into the fund just to keep us above water when it comes to giving step increases and to keep our current force on board. Without a raise in the limit, and if Bingham County does not see a great deal of growth in the next year or two, we will need to consider laying people off and that is not something that I want to do.

ARGUMENTS & ENTITIES AGAINST: The biggest argument is that it would seem to raise taxes.

FISCAL IMPACT: No fiscal impact at all to the State of Idaho.

TITLE: Jail Capital Improvement Optional Sales Tax

SPONSOR: Idaho Sheriffs' Association

STATUTES AFFECTED: Title 63 Revenue and Taxation

COUNTY OFFICE (S) AFFECTED: Commissioners, Sheriffs, Clerk-Auditor and Treasurers

COUNTIES AFFECTED: Ada, Canyon, Kootenai, Nez Perce, Twin Falls, Bannock, Bingham, Bonneville would be the most likely affected by an optional sales tax to construct jails, however smaller counties may consolidate to build regional facilities.

ISSUE/PROBLEM: There are 36 jails in Idaho and several have closed over the last 20 years because of an insufficient tax base to construct and maintain the facilities. Currently, many jails are crowded and counties lack the resources to construct new jails or make capital improvements on existing jails using traditional taxing authority. A bond levy vote to build a jail taxes property owners, however a sales tax would require all citizens to participate in funding a jail, which could improve support.

BACKGROUND & DATA: Idaho remains one of the fastest growing states with a population of over 1.7 million people. Idaho's 36 jails have approximately 4,711 beds, however due to inmate classification, all the beds cannot always be used. Some counties have attempted jail bond votes without success, however if a finance method is spread more evenly to include property owners as well as non-property owners, success may be achievable. A local county option sales tax was law until December 31, 2009 (I.C. 63-2602). Other attempts at local option taxes have not been successful.

PROPOSED POLICY: The proposal recommends a threshold of 60% to pass a Jail Capital Improvement tax. The revenue can only be used to fund the construction of a county jail or modifying an existing county jail. The amount, duration and purpose of the proposal shall be noted on the ballot vote. See attached statutory language.

ARGUMENTS & ENTITIES IN SUPPORT: Several jails have closed over the last several years because of an insufficient tax base to fund jail construction or operations. Additionally, several counties operate undersized jails for their inmate populations or inadequate facilities due to their age. This proposal would allow counties to finance jail construction or modifications by sharing the tax burden with all citizens including visitors through a sales tax, not just property owners. Additionally, smaller counties can join forces, with each counties voter's approval, to fund the construction of a single regional jail that may be manageable to operate together.

Sheriffs and other law enforcement agencies support the proposal. The ACLU may also support this proposal, as they have been vocal about jail crowding issues.

ARGUMENTS & ENTITIES AGAINST: Taxpayer groups and the Freedom Foundation as they typically resist initiatives that involve increased spending.

FISCAL IMPACT: There will only be a fiscal impact if county voters pass a Jail Capital Improvement tax. If this happens, depending on the size of the project, the fiscal impact could be hundreds of thousands of dollars or millions of dollars to the county or counties if a consolidated venture.



Public Lands

Tuesday, September 25, 2018

TITLE: Resolution to require federal government to pay property tax equivalent for eligible public lands under federal management.

SPONSOR: Kirk Chandler, Washington County Commissioner

STATUTES AFFECTED:

COUNTY OFFICE (S) AFFECTED: All

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Federal land payments to counties are insufficient to meet mandatory county service obligations. Congress originally intended federally managed public lands to be disposed of to the states. This has not happened in Idaho and has limited local governments ability to pay for necessary public services.

BACKGROUND & DATA: Article 1 sec. 8 paragraph 17 outlines the land the US Constitution allows the federal government to own. All other land was to be dispersed to the public and there was a land office set up for such disposition. As time went on the federal government established the Homestead Act, the Carey Act and the Deseret Entry Act to name a few. Public lands were intended to be disposed of to the public or the people so that it could be taxed to support local governments.

There was a law passed in or around 1838 that said that when a state entered into the Union that the land not disposed of by the federal government would be transferred to the newly established state. This was done with many states. Idaho and North Dakota became a state the same year. The land was transferred to North Dakota, but the federal government was tasked with continuing to dispose of the land in Idaho. The Idaho Constitution states that the State of Idaho forever deeded the land to the Federal government, until it is timely disposed of (Article IX, Section 8, Idaho Constitution).

Congress has failed to timely dispose of federally managed land in Idaho. Over the years the people of the United States have come to the feeling that federally administered lands are their lands. Because federally managed publicly lands have not been disposed of, the federal government should pay property taxes on the land to counties for county services.

PROPOSED POLICY: Require the federal government to pay property taxes on lands managed by eligible federal land management agencies including the US Forest Service and the BLM. Federal buildings, military reserves, and other federal facilities would not be subject to the tax. The US Forest Service and BLM would continue to administer public lands on behalf of the people and would use the income generated from activities on those lands to pay their taxes.

ARGUMENTS & ENTITIES IN SUPPORT: Idaho counties and legislators should support taxing eligible federal land as such a policy would provide additional revenues to counties for necessary public services.

ARGUMENTS & ENTITIES AGAINST: None

FISCAL IMPACT: TBD

Policy Brief

September 11, 2018

2019 Public Lands Resolution No. 1

Title: Resolution to require federal government to pay property tax equivalent for eligible public lands under federal management.

Sponsor: Kirk Chandler, Washington County Commissioner

Proposed: Require the federal government to pay property taxes on lands managed by eligible federal land management agencies including the US Forest Service (USFS) and the Bureau of Land Management (BLM). Federal buildings, military reserves, and other federal facilities would not be subject to the tax. The US Forest Service and BLM would continue to administer public lands on behalf of the people and would use the income generated from activities on those lands to pay their taxes.

ANALYSIS OF RESOLUTION

Fiscal Impact

2017 Payments in Lieu of Taxes (PILT) Revenue

In 2017 Idaho counties received \$30,054,704 in PILT from the federal government. The forty-four counties can be categorized by the amount in PILT received as follows:

- > \$2M (3) Blaine, Cassia, Elmore
Lincoln, Oneida, Power, Valley, Washington
- \$1M—\$2M (5) Bonneville, Fremont, Idaho, Owyhee, Twin Falls
- \$100K—\$500K (14) Adams, Boise, Butte, Camas, Caribou, Clark, Franklin, Gem, Jerome, Latah, Minidoka, Payette, Shoshone, Teton
- \$500K—\$1M (17) Ada, Bannock, Bear Lake, Bingham, Bonner, Boundary, Clearwater, Custer, Gooding, Jefferson, Kootenai, Lemhi,
- < \$100K (5) Benewah, Canyon, Lewis, Madison, Nez Perce

2017 Estimated Potential Tax Revenue of Federal Land

Methodology: The Idaho State Tax Commission tracks acres and market values for each county in seven different categories (not including residential and industrial categories)

1. Irrigated Agricultural Land
2. Irrigated Pasture Land
3. Non-Irrigated Agricultural Land
4. Meadow Land
5. Dry Grazing Land
6. Productivity Forestland
7. Bare Forestland

For each county, every category was assigned a value per acre. BLM and the U.S. Forest Service track the number of federal acres they manage for each county. For BLM land, the average of categories 1—5 was used as an estimate of the market value of each acre that BLM manages. Likewise, for USFS land, the average of categories 6 and 7 was used to estimate the market value of each acre USFS manages.¹

The two estimates (BLM and USFS lands) were added together to generate a total market value of federal land. With the assumption that counties would treat any potential taxes from federal land as new construction, the current levy rate was then applied to the market value of the newly acquired federal land giving a value of estimated tax revenue on the federal land for each county.

¹Given the wide range in market values between categories, and that BLM and USFS lands are most likely to be categories 5 and 7 respectively, the values used are likely overestimating the market values of both BLM and USFS managed lands.

Results: In 2017, given the assumptions described above, Idaho counties could have levied an additional \$24,505,548 in taxes² if able to tax federal land. The forty-four counties can be categorized by potential net taxable income on federal land as follows:

- > **\$2M** (2) Twin Falls, Idaho
- **\$1M—\$2M** (4) Clearwater, Custer, Owyhee, Shoshone
- **\$500K—\$1M** (11) Bingham, Bonner, Boundary, Butte, Cassia, Fremont, Gooding, Lemhi, Lincoln, Minidoka, Power
- **\$100K—\$500K** (17) Ada, Adams, Bannock, Benewah, Blaine, Boise, Canyon, Clark, Elmore, Gem, Jefferson, Kootenai, Latah, Oneida, Payette, Valley, Washington
- < **\$100K** (9) Bear Lake, Bonneville, Camas, Caribou, Franklin, Lewis, Madison, Nez Perce, Teton

Statewide, a withdraw from the PILT program in favor of taxes would decrease county revenue by an estimated \$5,549,156. However, the impact would not be felt uniformly across Idaho counties. In fact, some (17) counties could potentially benefit from taxing federal land as opposed to receiving PILT (see figures 1 and 2). While it is true that some counties would stand to benefit from taxing federal land in place of PILT, the average loss in revenue of the majority (61%) of counties would be \$432,493. To see the exact impact on each county, see figure 3.

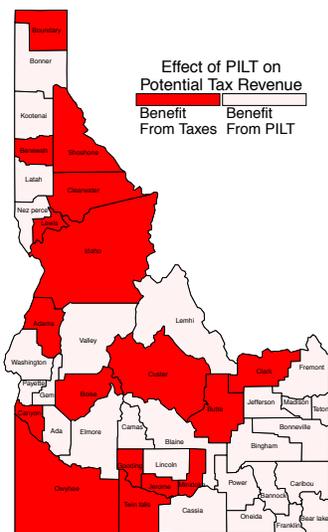


Figure 1

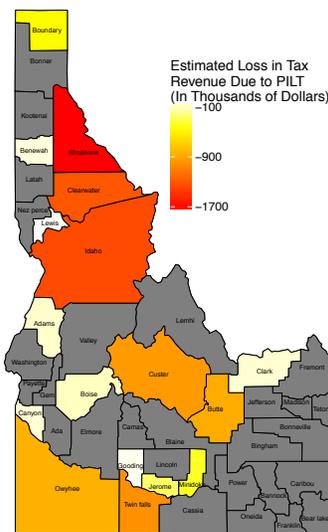


Figure 2

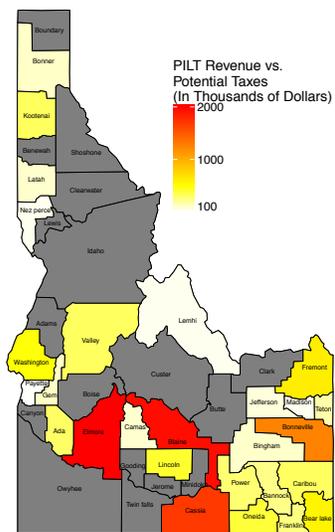


Figure 3

Conclusion

While some (17) counties stand to potentially gain from eliminating PILT revenue in favor of a taxes, most (27) would lose. Further, as noted before, the current estimates likely overvalue the federal land in terms of taxing, and thus overstating the potential tax revenue counties could levy. In other words, if a more conservative estimate were used, even more revenue could be lost if taxes replaced PILT.³

Timothy W. Hibbard, Policy Analyst
Idaho Association of Counties

²Neither federal buildings, military reserves or other federal facilities were incorporated into this analysis which overestimates the number of federal land acres being taxed in the analysis. This further overestimates the amount of potential taxes that could be levied from federal land according to the proposed tax exemption on these lands and facilities.

³Additional methodologies were used as well. For example, a method was used such that counties did not receive a tax authority to treat the newly acquired land as new construction to increase their budget, but instead increased their tax pool, thus giving a tax relief to current tax payers. In this scenario, counties traded 30 million in PILT revenue in exchange for 24.5 million in tax relief, statewide. The 17 tax-benefiting counties were able to decrease their net levies by an average .05%, while the 27 counties that benefit from PILT were forced to increase their net levies by an average .03% on current tax payers to make up for the lost revenue.

TITLE: Newly Acquired Federal Lands By Conservation Donations

SPONSOR: Wayne Butts, Commissioner, Custer County

STATUTES AFFECTED: Resolution for federal legislation

COUNTY OFFICE (S) AFFECTED: All

COUNTIES AFFECTED: All counties that are at least 85% owned by the federal government. Currently, would include Butte, Custer, and Lemhi and Valley counties.

ISSUE/PROBLEM: Private land is continuously being purchased by conservation organizations and then being donated to the federal government for conservation efforts. While this can be beneficial to an area, the unintended consequences result in a tax shift to the other property taxpayers in the county, as the costs to operate do not decrease. This has been an ever increasing issue in counties that have most of the land owned by the US government.

BACKGROUND & DATA: Since at least 1972 there has been a continuous process where conservation groups purchase land from private landowners and then gifting the land to the federal government. While this effort can be beneficial in preserving wildlife habitat and recreation areas, it has an ever-increasing effect on the property tax base for those counties that are already owned in great part by the federal government.

For example, 97.6% of Custer County is already owned by the federal government, but since 1972, an additional 6,368 acres have been purchased by various conservation groups and donated to the Sawtooth National Recreation Area. Just in the past two years, 1,368 acres have been taken off of the tax rolls and the property tax burden has shifted to the other taxpayers.

PROPOSED POLICY: Congress should enact a requirement that provides for the yearly payment of a fee in lieu of taxes for the property that is accepted as a donation for conservation efforts. The amount of this fee could be based upon the value of the property when it was removed from the tax rolls or some other set value, such as the value of the property as dry grazing.

ARGUMENTS & ENTITIES IN SUPPORT:

Taxpayers in the affected counties
Conservation organizations
Other local taxing districts

ARGUMENTS & ENTITIES AGAINST:

Conservation organizations

FISCAL IMPACT: There is not a fiscal impact to the state or local governments.



Transportation

Monday, September 24, 2018

TITLE: Resolution to establish a special SRS replacement property tax levy for counties and highway districts receiving SRS funds.

SPONSOR: IAC Transportation Committee

STATUTES AFFECTED: Section 40-801, Idaho Code.

COUNTY OFFICE (S) AFFECTED: Commissioners, Clerks

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: Declining SRS payments, future uncertainty in funding for county roads and bridges.

BACKGROUND & DATA: Total SRS payments to counties, highway districts, and schools have dropped from over \$44 million in 2008 to approximately \$24 million in 2017. Payments will decrease another 5% in 2018 and will expire thereafter unless reauthorized by Congress. Counties and highway districts wishing to levy property taxes to make up the difference currently have to split road and bridge property tax revenues from within cities 50/50 with the respective cities.

PROPOSED POLICY: Amend Section 40-801, Idaho Code, to establish a special levy to be used as replacement for lost/declining SRS funding. The special levy would be for county/highway district use only and not shared with cities.

ARGUMENTS & ENTITIES IN SUPPORT: Counties and highway districts need levy authority to begin levying property taxes to replace lost/declining SRS funding without having to share those tax revenues with cities.

ARGUMENTS & ENTITIES AGAINST: Cities wanting to receive 50% of road and bridge levy collections from within their respective city limits.

FISCAL IMPACT: Property taxes levied under the proposal to replace lost/declining SRS payments will vary by county/highway district need.

TITLE: Resolution to remove the sunset clause from Section 40-719, Idaho Code (strategic initiative/budget surplus eliminator program).

SPONSOR: IAC Transportation Committee

STATUTES AFFECTED: Section 40-719, Idaho Code.

COUNTY OFFICE (S) AFFECTED: Commissioners, Clerks

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: The strategic initiatives program (budget surplus eliminator) expires on May 31, 2019, thereby eliminating special project based transportation funding for local and state transportation projects.

BACKGROUND & DATA: In 2014, the Idaho Legislature established the strategic initiatives program dedicating 50% of surplus state revenues to strategic state highway projects. The law was reauthorized in in 2017 with a 2019 sunset. The 2017 reauthorization also required the funds to be allocated 60% to state projects and 40% to local projects. Local project funding is determined through a competitive application process administered by LHTAC. Awards to local highway projects must be shovel ready and are capped at \$1 million.

PROPOSED POLICY: Remove the sunset clause in the state strategic initiatives program (also known as the budget surplus eliminator program).

ARGUMENTS & ENTITIES IN SUPPORT: Counties, cities, highway districts, civil engineers, building contractors, industry groups, and ITD all support removing the sunset as the program provides critical funding for transportation infrastructure projects.

ARGUMENTS & ENTITIES AGAINST: Legislators who prefer surplus revenues to be budgeted for education.

FISCAL IMPACT: Over the last two years local governments have received over \$30 million in one-time transportation funding for special shovel ready projects. While it is not possible to forecast future revenues because future funding is tied to the availability of budget surplus dollars, allowing the current law to expire will result in a loss of future funding for critical local government transportation projects.

T-03

TITLE: Resolution to remove the sunset clause from Section 40-719, Idaho Code (strategic initiative/budget surplus eliminator program).

SPONSOR: IAC Transportation Committee

STATUTES AFFECTED: Section 40-719, Idaho Code.

COUNTY OFFICE (S) AFFECTED: Commissioners, Clerks

COUNTIES AFFECTED: All 44 counties

ISSUE/PROBLEM: A lack of funding for replacement of bridges on the local transportation system.

BACKGROUND & DATA: In 2014, the Idaho Legislature established the strategic initiatives program dedicating 50% of surplus state revenues to strategic state highway projects. The law was reauthorized in in 2017 with a 2019 sunset. The 2017 reauthorization also required the funds to be allocated 60% to state projects and 40% to local projects. Local project funding is determined through a competitive application process administered by LHTAC. Awards to local highway projects must be shovel ready and are capped at \$1 million.

PROPOSED POLICY: Remove funding for ISP from the highway distribution account, fund ISP through annual state appropriations, and dedicate the 5% from the highway distribution account currently going to ISP to assisting local highway jurisdictions replace bridges on the local system. ISP would receive dedicated sales tax dollars to offset the loss of highway distribution account funding.

ARGUMENTS & ENTITIES IN SUPPORT: Counties, cities, and highway districts will support the proposal as it provides dedicated funding for local bridge replacement.

ARGUMENTS & ENTITIES AGAINST: ISP may oppose being removed from the highway distribution account for fear that the Legislature will not adequately fund highway patrol.

FISCAL IMPACT: Approximately \$17 million in new ongoing funding for local bridge replacement.