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*"The welfare state is the oldest con game in the world. First you take people's money away quietly, and then you give some of it back to them flamboyantly."*

- [Thomas Sowell](#)

## Restriction on Eminent Domain Advances

This week the House Local Government Committee approved S1044 which would protect private property rights by prohibiting the use of eminent domain for recreational trails, bike paths, etc. Eminent domain is a direct taking of constitutionally protected and guaranteed private property rights. It should only be used in very narrow circumstances as outlined in the Idaho Constitution, and only for *necessary* projects which benefit **all** people in a community, not just a select few.

Recreational trails do not rise to this standard. A trail can go in any number of locations; it is not necessary that it must go through someone's property who does not wish to have people invading their back yard, leaving trash and vandalizing their property. Recreational trails should only be developed where there is a willing buyer and willing seller in the transaction.

S1044 now goes to the full House for final approval prior to moving to the Governor for his signature. Senator Jim Guthrie (R-McCammon) has done a marvelous job of shepherding S1044 through the legislative process. Representative Christy Perry (R-Nampa) will be the floor sponsor in the House.

The first and main objective of government is to protect the rights of the citizens. S1044 helps to accomplish that purpose. **Idaho Farm Bureau Federation supports S1044.**

## 129,000 Pound Trucks on Interstate Highway

Idaho Farm Bureau Federation (IFBF) supports House Joint Memorial 8 (HJM 8) and was an original supporter of the 129,000 pound truck pilot project on state highways in southern Idaho. Farm Bureau maintained this support since the project's inception in 2004 and has also encouraged the use of 129,000 pound trucks on southern Idaho's federal highway system.

HJM 8 encourages the United States Congress to allow the State of Idaho to set vehicle combination weights on the Interstate Highway system. This would enable the state to increase combination weights to 129,000 pounds, up from the current 105,500.

Nevada and Utah allow 129,000 pound combinations on their interstate highways. Interstate highways in Montana and Wyoming do not have weight limits. The 129,000 combinations result in significant savings because the same weights would be carried in approximately 20 percent fewer loads. Less fuel is burned, fewer trucks are on the road and less engine exhaust is put in the atmosphere. No negative impact on road surfaces, bridges or highway safety has resulted from the heavier trucks.



## Senate Bill 1137 - No Harm VS. Positive Benefits

While electrical utility mergers and acquisitions are not frequent, they do happen. Here are some recent examples:

Merger/Acquisition – Utah Power Light to Pacific Corp – 1987

Merger/Acquisition – Pacific Corp to Scottish Power – 2001

Acquisition – Mid-America Energy/Rocky Mountain Power acquired Scottish Power – 2006

Each of these utility ownership changes influenced the stability and viability of electricity service and rates for those customers within the utility's service territory. The level of service and cost of electricity changed in each case, sometimes for the better – sometimes for the worse.

The Idaho Public Utilities Commission (IPUC) is charged with regulating the three major electrical providers in our state. Idaho Power, Rocky Mountain Power and AVISTA are each allowed a protected service territory and the customers within that area are captive customers. The policies used to regulate these enterprises are established by Idaho's legislature and administered by three Governor appointed commissioners and a staff of about sixty. The administration and implementation of the governing policies are designed to serve two primary purposes: 1) to insure that a utility provides the expected service in a safe, reliable and cost efficient manner. With that comes to the utility a reasonable opportunity for a defined profit level; 2) to insure that customers are properly served and charged reasonable rates.

The public utilities are a regulated monopoly business. Regulations and oversight as imposed by the IPUC are designed to protect the customer because competition and traditional market drivers do not exist.

Current Idaho Code requires a merger or acquisition to be "consistent with the public interest," a no harm to customer's standard. Such a standard is ambiguous and requires no measurable improvement. The proposed change in Senate Bill 1137 allows for a measurable improvement standard, "that the transaction will better serve the public utility's customers and is in the public interest."

This change may perhaps seem subtle and of little value, but it is actually very substantive and important to benefit customers and something that the IPUC and staff can actually measure. The language was taken from Idaho's neighboring states merger/acquisition statutes. This change simply requires that positive benefits to Idaho's customers, and be in the public's interest, must be met before a merger or acquisition shall be approved by the commission.

This is an improvement to Idaho's utility code and is a safeguard for electricity customers in a non-competitive monopoly industry. Now is a good time to make this improvement, because there are no mergers or acquisitions currently before the IPUC.

**Idaho Farm Bureau Federation is supporting SB 1137.**

## S1073 Gives Ag Director Authority

**Idaho Farm Bureau Federation (IFBF) supports S1073**, a bill brought by Sen. Shawn Keough (R-Sandpoint) and Rep. Mat Erpelding (D-Boise). The legislation focuses on research on biological control methods of noxious aquatic weeds and is the product of two years' work by the Legislators. Idaho Department of Agriculture was consulted during this time and the bill brings aquatic noxious weed research more into line with research conducted on terrestrial noxious weeds.

Aquatic noxious weeds are a significant threat in our water- reliant state. The weeds can damage water bodies used for irrigation and domestic water. S1073 adds the new definitions of "article", "biological control agent" and "viable" to the existing noxious weed statute. Most significantly, powers of the Director of Agriculture are expanded to allow authority over the "*collection, removal and movement of noxious weeds from an infested area to a facility within the State of Idaho.*"

The research facility may be either public or private, but before this can happen the director must be notified in writing 30 days prior to any collection removal or movement of the noxious weeks. Procedures followed may not allow any dissemination of noxious weeds. Any biological control agent that is the subject of the research may not be a plant pest, invasive species or noxious weed as defined in the Idaho Code.

Additionally, noxious weeds may not be reintroduced into the environment as part of the biological control research. Articles as defined in S1073 such as plant parts must be destroyed or viability of any plant pests, invasive species or noxious weeds destroyed. The research projects are also conducted in a manner prescribed in writing by the Director of Agriculture.

If S1073 does not pass, the consequences are obvious; unregulated, unsupervised aquatic noxious weed research can be conducted within the State of Idaho. If discovered, the Director of Agriculture would be without a valuable tool to deal with it.

**Idaho Farm Bureau supports S1073 as written, but would consider offered amendments.**

## Farm and Ranching Capital Gains Tax Inconsistency Corrected

House Bill 133 was sponsored by Pro Tempore Brent Hill (R-Rexburg) at the urging of Idaho Farm Bureau Federation. This legislation clarifies language in Idaho's tax code that the Idaho State Tax Commission confirmed was not consistently interpreted.

Current law allows a 60 percent deduction of capital gains derived from the sale or disposition of tangible personal property used in a revenue-producing business and held for at least 12 months when determining Idaho taxable income. Cattle or horses held for breeding, draft, dairy or sporting purposes for at least 24 months and other livestock used for breeding held for at least 12 months also qualify for the 60 percent capital gains deduction if more than one-half of the taxpayer's gross income is from farming or ranching in Idaho.

Idaho Code 63-3022H(3) requires that livestock capital gains generated by pass-through entities (c-corps, s-corps or LLCs) must also meet the farming or ranching income requirement to qualify for the deduction.

Although not specified in the code, the Tax Commission was requiring the same farm income requirement to apply to any shareholder of the pass-through entity. Therefore, if a son or daughter of the owners of a ranch were minority shareholders in a family corporation and worked away from the farm, they would not receive the deduction on their share of the capital gains.

H133 simply clarifies that if the farming or ranching income requirement is met at the pass-through entity level, the capital gains will qualify for the deduction by the individual shareholders, regardless of whether or not more than one-half of their personal income is derived from farming or ranching. This results in consistent treatment of all qualifying capital gains, rather than holding livestock to a different standard.

This bill has now passed both houses of the legislature and is on its way to the Governor's desk and will likely receive his approving signature.

The clarifying language will be officially added to Idaho tax code and become effective on July 1, 2015. You may want to visit with your tax preparer to insure that the tax filings for your operation reflect this clarification.

## Good Tax Policy Moves Forward

Beginning on July 1, farmers and ranchers will no longer be required to pay sales tax on hand tools that cost less than one hundred dollars if they are used as an integral part of their farming and ranching enterprise. This is due to the passage of H39 which was approved by the Senate on a vote of 22-13 this week. H39 now goes to the Governor for his signature.

Ever since the sales tax was put into effect in 1965 there has been an exemption from sales tax for items used in the production of goods that are later sold. This prevents a pyramiding of sales tax as items are moved through the production process. This applies to all manufacturing, processing, mining or fabricating businesses as well as farming and ranching.

However, there has always been an exception to the production exemption which required businesses to pay sales tax on hand tools which cost less than one hundred dollars whether they were used as a part of the manufacturing process or not. Nobody knows why this was put into place in the first place, but it has become an administrative headache for both the Tax Commission and for businesses. The Idaho Tax Commission sponsored this bill to alleviate this administrative burden and to provide more clarity and certainty to taxpayers.

According to Idaho Code section 63-3622D subsection 5(e) "As used in this section, the term "directly used or consumed in or during" a farming operation means the performance of a function reasonably necessary to the operation of the total farming business, including, the planting, growing, harvesting and initial storage of crops and other agricultural products and movement of crops and produce from the place of harvest to the place of initial storage. It includes disinfectants used in the dairy industry to clean cow udders or to clean pipes, vats or other milking equipment."

**Idaho Farm Bureau Federation supports H39.**

## Three Significant Transportation Bills Introduced

This week three significant transportation bills were introduced in the House. There is some question whether any will get any traction, but all take a different approach to revenue raising and raise varying amounts of money.

H260 is sponsored by House Transportation Chairman, Joe Palmer (R-Meridian), Rep. Jason Monks (R-Meridian) and Rep. Greg Chaney (R-Caldwell). The bill increases the fuel tax (gas and diesel) by .06 cents. The transfer fee for gas and diesel will be increased to .03 cents from the current .01 cent. (The ag industry is currently opposing any transfer fee increase because the original intent of the transfer fee was to pay for the Idaho Petroleum Clean Water Trust Fund, which provided clean-up money for leaking underground tanks. The fee was used for environmental cleanup and is not intended to pay for roads and bridges.)

A fee of one hundred-twenty dollars is imposed on electric vehicles in H260. A hybrid vehicle fee of sixty-five dollars is

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created in the bill as well. Both are deposited in the highway distribution account. Other funds were generated by growth. If revenue increases by more than four percent from the prior year, four-tenths of one percent (.4%) of the total revenue collected by the state will be distributed to the Highway Distribution Account. When the total ongoing appropriation from future growth to the HDA reaches \$20,000,000 aggregate, the fuel tax will be reduced by .01 cent. Although the fuel tax is increased by .06 cents on July 1, 2015, the tax is reduced by .01 cent when the \$20,000,000 objectives are met. The tax is decreased by .01 cent until it reaches .25 cents and the fuel tax increase is null and void after July 1, 2021.

Based on 2014 numbers the General Fund impact is estimated to be about \$12,500,000. Transportation maintenance revenue is increased by approximately \$69,000,000. Total amount raised by this legislation is estimated to be approximately \$81,600,000.

H261 is based on a "one year sacrifice" to hold to the prior year's budgets across the board by all agencies for FY2017. The bill is brought by Rep. Steven Harris (R-Meridian). Under this proposal, up to \$120,000,000 would be available to transfer to the HDA. That amount would be appropriated year by year.

For FY2018 and beyond, General Fund growth would once again be available for typical spending growth. Under this bill, after JFAC has finished the FY2017 budget for mandatory state General Fund expenditures, the remaining balance in the GF, up to \$120,000,000 would be dedicated to the HDA.

Majority Caucus Chairman, Rep. John Vander Woude (R-Nampa), is the sponsor of H266. The bill raises a total of \$104,000,000 for transportation maintenance. With \$84,000,000 to roads and bridges and \$20,000,000 for GARVEE debt service and other purposes.

H266 increases the fuel transfer fee to .03 cents from .01 cent. With .01 cent remaining in the Idaho Petroleum Clean Water Trust Fund for environmental clean-up and the additional .02 cents will be deposited to the Highway Distribution Account. Car, light truck and other registrations are increased 25 percent. Truck registrations increase approximately three and one-half percent for a 105,500 pound truck in the lowest mileage band. Non-commercial and farm trucks up to 60,000 pounds increase approximately 10 percent. Electric vehicles are charged a \$250 fee in addition to registration fees while hybrid vehicles will be charged \$100 fee in addition to registration. The fuel tax is raised to .30 cents per gallon as well.

Commercial truck permit fees are increased in H266. The bill creates a Transportation Infrastructure Fund. Budget Stabilization Fund moneys will be transferred to this fund when state revenues exceed 4 percent of the prior year's growth. If that situation occurs, two-thirds of the revenue in excess of 4 percent will be deposited into the infrastructure fund.

A GARVEE Capital Project Fund is created by H266 and will be used to pay down GARVEE debt. Starting in FY2016, \$10,000,000 in general fund moneys would be paid into the fund until the GARVEE bonds are paid.

Idaho Farm Bureau opposes transfer fee increases as we consider this a tax increase on off-road fuel that is never used on the highway. Additionally, the transfer fee has always been intended for environmental clean-up and is not highway related. Farm Bureau also opposes any differential in the fuel tax rates for diesel and gasoline. However, IFBF remains open to discussing the revenue raising alternatives presented in these bills or any others.