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Appropriations, Energy, Judiciary
Committees

House of Representatives State of Idaho

Rep Jaquet Calls for Tax Commission Reform

Idaho State Representative Wendy Jaquet (D), Ketchum, announced today that she will introduce legislation during the next session of the Idaho Legislature that will bring the troubled and controversial State Tax Commission into the 21st Century.

Jaquet, a former member of the House Revenue and Taxation Committee and now a member of the legislature's budget writing committee said Idaho taxpayers are tired of the politics of the commission and even more concerned about the widespread and persistent allegations of favoritism and sweetheart deals.

"It is high time to professionalize the Commission," Jaquet said. "Four political appointees lead the commission, two Democrats and two Republicans, with the Chair being appointed by the Governor," said Jaquet.

The current Chair, Royce Chigbrow, has a long history of partisan political involvement and has served as the treasurer in Gov. Otter's previous races. (Chigbrow's son currently serves as Otter's campaign treasurer and Chairman Chigbrow has made numerous political contributions to Otter's campaigns over the years.)

"The governor appoints the chairman, but he appears unwilling or unable to get his long-time political associate to address the obvious mismanagement at the Commission. It is time for the legislature to act," Jaquet said.

Prior to Governor Phil Batt's decision to appoint the chair, the chair was chosen by the four commissioners. "We now have a 1950's model, with no accountability except to a politically elected Governor who won't take action," she said. "It is time to appoint a professional administrator who would not be tied to special interests."

Jaquet said she decided to act when it became obvious that the current administration was not taking steps to address recent whistle blower allegations of favoritism and, in fact, seems perfectly comfortable with the status quo.

Jaquet's bill creates an agency called the Department of Revenue and Taxation to be headed by the position of "director of revenue" who shall be responsible for the administration of the agency. The agency will assume most of the duties currently entrusted to the state tax commission. The legislation would permit the state tax commission to perform the constitutionally mandated function of the state board of equalization. The commission will continue to function part time and the director of revenue shall be the ex officio executive officer of the state tax commission. A similar bill was passed by the House in 1993 and amended in the Senate, but did not fully pass.

Rep. Jaquet pointed out concerns that have come to light that make this recommendation urgent in the current challenging environment.

1. The four commissioners normally operate as four silos with overlapping responsibilities making governance impossible. What might have worked in 1944 when the commission was created and in

1967 when the commissioners became full time, is now cumbersome and clearly does not work today. A strong chair with authority vested from the Governor can end up emasculating the other three commissioners. Most other states do not have a tax commission including Montana, Washington, Oregon, Colorado and Wyoming. Utah has four tax commissioners appointed by the Governor who select an executive director who runs the day to day operations of the commission.

2. The current chairman has precipitated a fight with Idaho's elected county assessors by proposing rule changes that as Jaquet said, "may cater to his fee appraiser associates, but create an unfunded mandate on already budget stretched assessors and their counties, not to mention the commission itself." Jaquet said most counties will need to hire outside vendors to create the reports to meet the new standards for record keeping imposed by the Commission and the current chairman. And attorneys may have a field day with details that are not found in files as specified. "Usually rules coming before the legislature have been vetted with the Commission as well as with the assessors and unanimity of opinion across all decision-makers is present," she said. "I am concerned when many assessors say they can't understand why the chairman is so driven to make this change without trying to obtain consensus?" The Commission held a public hearing on the expedited rule changes on the 21st of September. The state's normal negotiated rule-making process was not utilized.
3. Retired and currently employed tax auditors have stepped forth, at considerable risk to their own careers, to say that the Commission is making secret sweetheart deals that affect state tax collections and therefore budgets. "An estimate of \$75 million of lost revenue is not chicken feed," she said. "That is more than half of the shortfall for education funding." Given the current economy, Idaho taxpayers want to know, and are entitled to know that everyone is paying their fair share and that there are no sweetheart deals to large multi-state corporations or to those politically well-connected, she said.

Jaquet also proposes a forensic audit of the Commission: "I fear that the Attorney General's office may have a conflict of interest. That office staffs the commission or the commission chair when these secret decisions are made. Our current Attorney General was on the commission staff in the past and the current newly assigned Deputy Attorney General was also a participant in past Compromises and Closes, C and C's."

The legislature needs to demand that there be an independent forensic audit of the commission by a competent firm outside of Idaho, experienced in these matters," said Jaquet. A forensic audit will look at the commission from top to bottom, drill down to the basic facts and examine the conduct of the people involved, she said. Jaquet said we need to develop a process to determine who gets audited where the selection is blind which will ensure that the process is fair for all Idaho taxpayers.

Jaquet proposes that the firm selected should report to the Chairs of the House and Senator Revenue and Taxation and Local Government and Taxation Committees who will calendar public hearings by the

end of the 2011 session. The Legislative Council at its November meeting can authorize the Office of Performance Evaluation to oversee the forensic audit for the committees.

4. Concurrent with the reorganization of the State Tax Commission, Jaquet is requesting that the revenue forecasting and fiscal analysis functions in the Division of Financial Management in the Executive Office of the Governor be moved to the newly created department of revenue and taxation to access more fully the data available in that office to facilitate forecasting and attempt to keep politics out of revenue forecasting . Specifically Jaquet is recommending:
 - a. Moving revenue forecasting and fiscal analysis from the Division of Financial Management, Office of the Governor, to the Department of Revenue and Taxation (the former State Tax Commission) by amending and expanding the duties of the State Economic Estimates Commission. The EEC is an existing commission which consists of the same members as the Tax Commission. Such a change would leverage existing resources at the department (STC) to better facilitate creation of baseline revenue forecasts based on economic forecasting best practices.
 - b. Creating a formal consensus process (such as a conference) for the Governor's Office and Legislators (on the Economic Outlook and Revenue Assessment Committee) to review the projection created by the department (STC) earlier in the legislative year.

Jaquet pointed out that not only will this give us objective, unbiased economic forecasting using best practices, but should also provide realistic "real world" information regarding expected state tax revenues. This is how it is done in several states and holds promise for our state, she said.