

CAPITOL REFLECTIONS



Idaho Farm Bureau's Government Affairs Report

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Idaho Farm Bureau Federation Governmental Affairs Division

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Tribal law enforcement

House Bill 500, which allows tribes to enforce Idaho law on Indian reservations throughout the state, was held in the House Judiciary, Rules and Administration Committee this week at the request of the sponsor. This came after the bill was held after last week's 3 1/2 hour hearing.

The Coeur d'Alene Tribe, the bill's sponsor, and Benewah County were able to reach a negotiated agreement on how law enforcement activity will be conducted on the reservation. Details of the agreement were not disclosed at the hearing.

Under H500, a tribe would have had the authority to enforce Idaho law within the exterior boundaries of the reservation if tribal officers were Idaho POST (Peace Officer Standards and Training) Academy certified, certain levels of general liability insurance coverage were met and the Tribe waived its right to sovereign immunity.

The most troublesome component of the bill was the method of election to enforce Idaho law. The bill would have required a tribe to notify the sheriff, county commissioners, prosecutor and Idaho State Police of its intent to enforce state law. Then the local sheriff had 180 days to enter into a cooperative agreement with the tribe. If no agreement was reached within the 180 days, the Tribe could proceed on its own, provided it met the conditions outlined in the bill.

Opponents said the bill created a law enforcement entity that was not answerable to local, county or state government. Non-tribal members living on reservations were concerned about dispute resolution between non-tribal members and tribal law enforcement agencies. Supporters said officer and public safety were the primary concerns driving the bill.

Idaho Farm Bureau, the Idaho Sheriff's Association, Idaho Prosecuting Attorneys Association and the Idaho Association of Counties opposed H500.

Idaho health freedom a first

Idaho has jumped squarely into the national debate over health care reform by becoming the first state to tell Congress and President Obama it doesn't intend to let the federal government call the shots and will go to court to defend its 10th Amendment right.

Governor Butch Otter, in his first signing ceremony of the legislative session, this week put his stamp of approval on House Bill 391a, the Idaho Health Freedom Act. The bill cites the state's sovereign power and declares that "the public policy of the state of Idaho, consistent with our constitutionally recognized and inalienable rights of liberty, is that every person within the state of Idaho is and shall be free to choose or decline to choose any mode of securing health care services without penalty or threat of penalty."

Governor Otter signed the bill in a ceremony attended by legislative sponsors of the measure. "What the Idaho Health Freedom Act says is that the citizens of our state won't be subject to another federal mandate or turn over another part of their life to government control," Governor Otter said.

Under the act, Idaho officials and employees are prohibited from enforcing any penalty that violates the state's policy of freedom of choice in health care. Furthermore, the bill requires the Idaho attorney general to defend the state's policy by seeking injunctive or any other appropriate legal relief as necessary. According to

The Associated Press, 37 other states are considering similar legislation.

Idaho Farm Bureau supported H391a.

Taxes on internet, catalog sales

A bill that would have moved Idaho one step closer to collecting sales tax on internet, catalog and other "remote" sales died in the House Revenue and Taxation Committee this week on a tie vote. House Bill 658 would have authorized the Idaho State Tax Commission to participate in the Streamlined Sales Tax Project, a compact with other member states, whose purpose is to enable the collection of sales tax on "remote" sales. The tax would then be remitted to the purchaser's home state.

The bill further directed the State Tax Commission to prepare legislation to be presented next year that would be necessary to bring Idaho law into conformance with the Streamlined Sales Tax project. The Legislature would then need to adopt the legislation before Idaho could become a fully participating state. Most of the anticipated changes would be changes in definitions in our current statutes relating to how goods and/or services are categorized so that member states have common definitions. Idaho would still be able to decide what they tax and at what rate, but they would use the common definitions to cover what is and is not taxed.

However, some of the anticipated changes to bring Idaho into conformance would require a change in state tax policy. As an example, currently if you sell a house and include in the sale a refrigerator or draperies, etc. it is deemed taxable personal property. Under the compact these items are considered part of the real property. The Legislature would need to change how these items are classified if they choose to become a fully participating state in

CONTINUED ON BACK PAGE

FROM FRONT PAGE

the streamlined sales tax project.

The reason this is an issue at all is because Idaho imposes a “use tax” on all products that are purchased outside of Idaho, by an Idaho resident, for use in Idaho. This tax is 6 percent of the purchase price, just the same as the sales tax. Residents are supposed to keep track of their internet, catalog and other purchases that they don’t pay sales tax on, figure the tax, and enter it on their state tax forms on the “use tax” line.

If you purchase items on-line from a company that has an actual store in your state, such as Cabella’s in Idaho, the company is already required to charge sales tax on your on-line purchase.

Most individuals are not even aware of this tax and most do not bother to keep track of these items so they can accurately report each year on their taxes. According to the State Tax Commission, individual filers send in about \$300,000 – \$400,000 each year for use tax. However, Idaho businesses remit in excess of \$50 million in use tax each year since they know they can be audited and penalized if they do not comply. One study by the University of

Tennessee estimates that Idaho is losing about \$70-\$80 million each year from uncollected use tax.

The Legislature is reluctant to repeal the use tax since so much is collected from businesses. Officials, however, seem unwilling to go after individuals who owe the tax since it would cost more to investigate than they are likely to receive in taxes due. A coalition of local businesses has been working for the past 10 years or so to get Idaho to participate in the project since there is a disadvantage to local businesses that have to charge the 6% sales tax when they are competing with out-of-state businesses that are selling the same products and are not charging sales tax.

Idaho Farm Bureau has watched with interest this issue over the years, but has not taken a position on the efforts to have Idaho become involved in the Streamlined Sales Tax Project. A similar bill passed the Senate earlier this session, but was not considered in the House.

Privacy for hunters

A bill that protects the privacy and safety of people who purchase Fish and Game licenses, permits and tags was given a do-

pass recommendation this week by the Senate Resources and Environment Committee, which rejected pleas by news media lobbyists to keep the license records open to public viewing. The records, which include the names of people who have purchased licenses, have been used to harass wolf hunters whose identities were splashed on the internet this year.

Under House Bill 531a, names and other personal information of licensed hunters, anglers and trappers would be confidential—something many license holders already assume is the case. An exception is provided for use by law enforcement and other government entities.

The bill, sponsored by Rep. Judy Boyle (R-Midvale), also makes it a crime to harass, intimidate or threaten by any means, including via e-mail and website, any person who was or is engaged in the lawful taking of wildlife.

The measure, which passed the Idaho House on a 55-14 vote, now heads to the Senate floor.

Idaho Farm Bureau supports H 531a and testified in favor of the measure during House and Senate committee hearings.

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