

MINUTES
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Tuesday, March 26, 2013

TIME: 8:30 A.M.

PLACE: Room EW42

MEMBERS: Chairman Collins, Vice Chairman Wood(35), Representatives Barrett, Moyle, Raybould, Denney, Anderson(31), Anderst, Dayley, Hartgen, Kauffman, Patterson, Trujillo, Burgoyne, Erpelding, Meline

**ABSENT/
EXCUSED:** None.

GUESTS: Tony Smith, Benton Ellis; Russell Westerberg, No Surcharge Committee; N.L. Clayville, DFM; Pam Eaton, Idaho Retailers Association; Mike Chakarun, Idaho State Tax Commission; Wayne Hammon, Associated General Contractors.

Chairman Collins called the meeting to order at 8:30 a.m.

MOTION: **Rep. Trujillo** made a motion to approve the minutes of March 22, 2013. **Motion carried by voice vote.**

H 326: **Rep. Wood(35)** presented **H 326** which provides direction to the Idaho State Tax Commission (ISTC), relating to the collection of sales and use tax data on sales of motor vehicle tires. The Idaho Transportation Department is seeking revenue generation options to help fund transportation needs. This bill would allow collection of data to determine the tax generated by motor vehicle tire sales paid into the General Fund.

MOTION: **Rep. Barrett** made a motion to send **H 326** to the floor with a **DO PASS** recommendation.

Pam Eaton, Idaho Retailers Association, testified in **opposition to H 326** stating this legislation would add extra cost and burden to retailers. In addition to changes in Point Of Sale (POS) inventory tracking and accounting systems, there is a potential for increased audits by the (ISTC). Ms. Eaton said retailers already collect sales tax for the state and this would add an additional burden. If the goal is to determine how many tires are sold, retailers believe there are other ways to accomplish this without legislation. As an example, retailers have the capacity to generate data on the number of tires sold, from which a sales tax projection could be calculated. Retailers are also concerned if specific items are tracked, it opens up the potential for an additional tax to be imposed. Ms. Eaton responded to a question stating in order to break out sales tax per item, changes would need to be made to accounting and POS software. Sales tax is currently reported on a monthly basis. The aggregate sale of tires is much easier to obtain from existing data and systems than segregating sales to determine the sales tax. The cost of modifying the POS system would vary depending on the scale and smaller retailers would likely have greater costs.

Ms. Eaton acknowledged once the POS system is modified, the added cost would not be continued. However, she stated there would be continuing costs of accounting and liability, related to the completion of the form. Ms. Eaton, in response to a question, did not have the number of tire retail establishments currently doing business in Idaho. Retailers have the capacity to generate the total number of tires sold by general category, such as heavy truck and passenger vehicles. Ms. Eaton stated the Idaho Retailers Association membership is not comprised of all tire retailers in the state, but she estimates a large majority of tire retailers are members.

Mike Chakarun, Tax Policy Manager, Idaho State Tax Commission (ISTC), spoke regarding concerns the ISTC has with **H 326** stating the current tracking form would likely need to be modified or redesigned. The taxpayer accounting system would also need to be changed and the estimated fiscal impact is likely greater than the estimated \$68,000. Mr. Chakarun outlined the process to set up a new tax type into the system, which typically takes six months. Currently, the ISTC is working on several other new tax type changes and does not have the staff or resources to devote to the changes **H 326** would require. Mr. Chakarun stated this legislation has no provision for penalties or sanction, in the event a vendor fails to report as required. The ISTC audit department would be put into a position of verifying reports but without direction for resolution in cases of noncompliance. An additional concern is the lack of an adequate definition of 'motor vehicle'.

Mr. Chakarun stated H 326 has an effective date of February 28th and there is insufficient time to prepare for reporting of the initial sales tax reports, which would be submitted in August. Mr. Chakarun stated the ISTC could work with retailers to come up with an alternative method to approximate the number of tires sold and estimate of taxes generated.

Wyane Hammon, Association of General Contractors (AGC), spoke in **support of H 326**. Mr. Hammon stated the AGC believes this is good tax policy and the data on tire sales should be readily available, but Idaho's system doesn't allow collection.

SUBSTITUTE MOTION:

Rep. Burgoyne made a substitute motion to **HOLD H 326**.

VOTE ON SUBSTITUTE MOTION:

Chairman Collins called for a vote on the substitute motion. Roll call vote was requested. **Motion carried by a vote of 11 AYE and 5 NAY. Voting in favor of the motion: Reps. Raybould, Anderson(31), Anderst, Dayley, Hartgen, Kauffman, Patterson, Burgoyne, Erpelding, Meline, and Collins. Voting in opposition to the motion: Reps. Wood(35), Barrett, Moyle, Denney, and Trujillo.**

RS 22286C1:

Rep. Clow presented **RS 22286C1** which is related to streamlined sales tax. The basic concept behind this proposed legislation is to deal with types of sales that occur remotely. Retailers are not required to collect sales tax on internet or online sales unless they have a nexus in the state. A retailer with a nexus in Idaho is required to collect and remit sales tax. This proposed legislation would update existing tax code and create a new chapter to deal with streamlined sales tax. The Streamlined Sales Tax Governing Board (SSTGB) is a coalition of member states. Some states voluntarily collect taxes on remote sales. **RS 22286C1** has an effective date of January 1, 2015 to begin collection of tax but would apply on or after July 1, 2013 to become a member of the SSTGB.

Rep. Clow stated this proposed legislation is a modified version of **H 581** from the 2012 session. Retailers selling remotely, having a nexus in Idaho and sales of less than \$1 million, are not mandated under federal law to collect sales tax. The Marketplace Fairness Act (MFA) is currently under consideration in Congress and contains references the SSTGB in terms of collection and policy. Rep. Clow responded to a question stating by printing the bill late in the session, it would provide interested parties the time to review legislation as well as creating a framework for future consideration.

In determining remote sales tax, **Rep. Clow** stated Idaho has destination based sourcing and tax is applicable for remote sales that are delivered to the state. States with origin based sourcing, tax remote sales based on the state of origin for the sale. In response to a question. Rep. Clow stated a legal review cleaned up the language of **H 581**, omitting language not applicable to Idaho. Rep. Clow stated he did not calculate the potential cost for implementation of this process, but the ISTC was involved in drafting the proposed legislation.

MOTION: Rep. **Erpelding** made a motion to introduce **RS 22286C1**.

Rep. **Clow** responded to a question stating if the MFA passes, there is no requirement to join SSTGB, which was created to assist in establishing uniform reporting of streamlined sales tax. The SSTGB can be a significant help to implementation, particularly in smaller states, and is a coalition, not a government entity. Rep. Clow spoke on the history of an Executive Order, implemented in 1999 by Governor Kempthorne, which was in place for four years. The Executive Order allowed Idaho to join and become active in SSTGB in an advisory capacity. Idaho is not a member of the governing board, which currently has 22 full and 22 associate members.

VOTE ON MOTION: Roll call vote was requested. **Motion failed by a vote of 5 AYE, 10 NAY, 1 Absent/Excused. Voting in favor** of the motion: **Reps. Kauffman, Trujillo, Burgoyne, Erpelding, and Meline. Voting in opposition** to the motion: **Reps. Wood(35), Barrett, Moyle, Raybould, Denney, Anderson(31), Anderst, Dayley, Hartgen and Collins. Rep. Patterson** was absent/excused.

RS 22020C1: Rep. **Ringo** presented **RS 22020C1** which would impose a 5% Idaho income tax surcharge on taxable earnings in excess of \$50,000, retroactive to January 1, 2013. This proposed legislation would also create a special project fund that can be used to comply with state law or with policy when failure to comply is a result of inadequate general fund revenues. Tax surcharge revenue may also be used to deal with budgetary needs when failure to act is deemed detrimental to state interests. A tax surcharge would provide a source of revenue to meet certain needs as the economy grows stronger.

Rep. **Ringo** provided information comparing 2009 and 2014 budgets to illustrate the decrease in public school, agriculture research, professional/technical education and higher education funding. Additional issues of deferred maintenance on state buildings, roads and bridges were identified. A comparison of Idaho teacher pay at an average of \$46,483 was made to surrounding states, which averages \$51,146, putting Idaho at a disadvantage in attracting and retaining teachers. This proposed legislation could provide additional revenue to address these and potentially other budgetary needs. Rep. Ringo stated that approximately 15% of Idaho taxpayers would be impacted by this proposed legislation and acknowledged the proposed legislation could benefit by the inclusion of a sunset provision.

Rep. **Ringo** responded the Attorney General has not provided an opinion. In considering options for proposed legislation, Rep. Ringo stated Idaho has the lowest median income in the nation and she looked at the adequacy of revenue needed to meet the obligations of the state. Research shows a reduction in tax rates do not increase in economic growth.

MOTION: Rep. **Hartgen** made a motion to **HOLD RS 22020C1** in committee.

SUBSTITUTE MOTION: Rep. **Burgoyne** made a substitute motion to introduce **RS 22020C1**.

VOTE ON SUBSTITUTE MOTION: Chairman **Collins** called for a vote on the substitute motion. A roll call vote was requested. **Motion failed by a vote of 3 AYE, 11 NAY, 2 Absent/Excused. Voting in favor** of the motion: **Reps. Burgoyne, Erpelding, and Meline. Voting in opposition** to the motion: **Reps. Barrett, Raybould, Denney, Anderson(31), Anderst, Dayley, Hartgen, Kauffman, Patterson, Trujillo and Collins. Reps. Wood(35) and Moyle were Absent/Excused.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 10:09 a.m.

Representative Collins
Chair

Kathleen A. Simko
Secretary