

MINUTES  
**HOUSE REVENUE & TAXATION COMMITTEE**

**DATE:** Friday, March 11, 2016

**TIME:** 8:00 A.M.

**PLACE:** Room EW42

**MEMBERS:** Chairman Collins, Vice Chairman Trujillo, Representatives Moyle, Raybould, Anderson, Anderst, Dayley, Hartgen, Kauffman, Chaney, Nate, Scott, Thompson, Erpelding, Nye, Rudolph

**ABSENT/  
EXCUSED:** Vice Chairman Trujillo

**GUESTS:** Jonathan Parker, Holland & Hart; Liz Hatter, Idaho Chamber Alliance; Ben Davenport, Associated Taxpayers of Idaho; Russ Hendricks, Farm Bureau; Pam Eaton, Idaho Retailers Association

**Chairman Collins** called the meeting to order at 9:00 A.M.

**H 581:** **Rep. Clow** presented **H 581** dealing with sales and use tax. This legislation will redefine who is considered a retailer and when a retailer is engaged in business in Idaho. In 1992, the Supreme Court decision in Quill vs. No. Dakota, established that unless you have a nexus in the state, a remote retailer could not be required to collect sales tax. In 2015, the 10th Circuit Court took the position that Colorado could require a remote retailer to collect and report sales tax. Currently, 26 states have enacted legislation requiring remote retailers to report and collect sales tax for purchases made in their state and 5 states have similar legislation pending.

This legislation changes the definition of "retailer" and whoever meets that definition must follow the same rules as all other brick and mortar companies. This is not a new tax and sales tax on online sales has always been due with the taxpayer self-reporting on their annual tax return. This bill will require the retailer to collect and remit the sales tax. Many online retailers are currently voluntarily collecting and reporting Idaho sales tax to the Idaho State Tax Commission. **Rep. Clow** noted that since a large portion of these online sales taxes are currently voluntarily collected and remitted by online retailers, it is difficult to estimate the fiscal impact.

Responding to Committee questions, **Rep. Clow** explained this legislation does not change what is being taxed but defines if someone is engaged in business and subject to the Idaho sales tax. Since the online retailer will now collect and remit the tax which has previously been self-reported by the taxpayer, concern was expressed about double paying the sales tax. Although he didn't think this was going to be problem since most people know when they have paid tax on a purchase, Rep. Clow stated there is a refund mechanism in place for taxpayers to obtain a refund for overpayment of taxes.

**Rep. Moyle** stated he would be in favor of this legislation if it were amended to include some sort of tax relief and he thinks it could generate as much as \$20 - 30 million in additional revenue.

**Liz Hatter**, Idaho Chamber Alliance, spoke **in support** of the bill saying she views this as a fairness issue which will require all sellers of goods to comply with Idaho sales tax obligations. The Idaho Chamber Alliance does not view this as a new or increased tax. It is a tax that has always been due and it will level the playing field for Idaho retailers.

**Russ Hendricks**, representing the Idaho Farm Bureau, spoke **in opposition** to the bill noting concerns with online retailers who may not be equipped to handle tax exempt sales. He indicated they would prefer to see any additional revenue collected by these retailers to be targeted toward tax relief. He asked the committee to hold this legislation in committee to provide more time for analysis of the proposal.

**Pam Eaton**, President & CEO, Idaho Retailers Association, spoke **in support**. She stated that current law disadvantages Idaho retailers when out-of-state retailers are not required to collect and remit sales tax the same as they do. Since this legislation would require the majority of on-line retailers to collect and remit the sales tax, this will actually help Idaho citizens abide by the law. Currently, taxpayers are required to self-report these purchases on their annual income tax form and pay the sales tax. Many taxpayers comply but the majority do not. She also mentioned that software is currently available to retailers and easy to install which will collect and remit these taxes as required.

**Rep. Chaney** stated there was a lot he liked about this bill and thinks it will help bring economic stimulus to the state by giving equal footing to all retailers and provide funds for tax relief. But he spoke **in opposition** stating there was no assurance that this increased revenue will be used for anything but increased spending.

Although he felt the objectives of fairness and equity were good, **Rep. Hartgen** spoke **in opposition** to the bill citing concern with usage of this on-line sales data base that could be used by the Tax Commission and it appears to tax advertising services which has had an exemption in the past.

**MOTION:** **Rep. Hartgen** made a motion to **HOLD H 581** in committee.

**SUBSTITUTE MOTION:** **Rep. Kauffman** made a substitute motion to send **H 581** to the floor with a **DO PASS** recommendation and spoke to the motion. He considers this a fairness issue and its purpose is to collect taxes that are owed. He is not opposed to including some form of tax relief but since we do not know how much additional revenue this will generate, next year we will have a better idea of revenue and can address that issue then.

**Rep. Rudolph** spoke **in support** of the substitute motion stating it was the moral thing to do and it closes the loophole that allowed people to do business in Idaho and not collect sales tax.

**AMENDED SUBSTITUTE MOTION:** **Rep. Moyle** made an amended substitute motion to send **H 581** to **General Orders**. He spoke to the motion stating the legislation should include a mechanism, if one is not already available, for taxpayers to request a refund if they pay the sales tax twice. And, he feels strongly about including some form of tax relief with the additional revenue this bill will provide.

**Rep. Nate** spoke **in support** of the original motion, **in opposition** to the substitute motion and **in support** of the amended substitute motion. He opposes this proposed legislation on constitutional grounds. In the interests of leveling the playing field for Idaho retailers, we either look to raising regulations or raising taxes. He feels we should take a look at lowering taxes which would enhance Idaho's competitive economic stance.

**Rep. Anderst** spoke **in support** of the amended substitute motion with the caveat that any new revenue generated should be used to reduce income or sales taxes. He thinks this legislation will clarify issues related to sales tax collection and reporting by on-line retailers as well as brick and mortar stores.

**Rep. Raybould** spoke **in support** of the amended substitute motion if it contains a mechanism for taxpayers to obtain refunds of any overpayment or double payment of sales tax.

**ROLL CALL  
VOTE ON  
AMENDED  
SUBSTITUTE  
MOTION:**

**Chairman Collins** requested a roll call vote on the amended substitute motion to send H 581 to **General Orders. Motion carried by a vote of 11 AYE, 4 NAY and 1 ABSENT. Voting in favor** of the motion: **Reps. Moyle, Raybould, Anderst, Dayley, Hartgen, Chaney, Nate, Scott, Thompson, Rudolph and Collins. Voting in opposition** to the motion: **Reps. Anderson, Kauffman, Erpelding and Nye. Representative Trujillo** was absent. Rep. Clow will sponsor the bill on the floor.

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 9:25 A.M.

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Representative Collins  
Chair

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Bev Bean  
Secretary