

MINUTES  
**HOUSE REVENUE & TAXATION COMMITTEE**

- DATE:** Monday, February 19, 2018
- TIME:** 8:00 A.M.
- PLACE:** Room EW42
- MEMBERS:** Chairman Collins, Acting Vice Chairman Kauffman, Representatives Moyle, Raybould, Anderst, Dayley, Hartgen, Chaney, Nate, Thompson, Gestrin, Stevenson, Troy, Gibbs, Erpelding, Gannon
- ABSENT/  
EXCUSED:** None
- GUESTS:** Douglas Hunter, UAMPS; Russell Westerberg, RMP; Melinda Merrill, Nuscale/UAMPS; Pam Eaton, ID Retailers Assn; John Eaton, IACI; John Watts, Chamber Alliance; Sarah Bettwieser, Turo; Fred Birnbaum, Idaho Freedom Foundation
- Chairman Collins** called the meeting to order at 8:00 a.m.
- H 591:** **Kenneth McClure**, UAMPS, presented **H 591**. This Legislation makes three technical changes to the tax exemption for new capital investments of at least \$1 billion. First, it clarifies that the exemption applies to any investment in real or personal property, regardless of how or by whom the property is assessed. Second, it changes the beginning of the qualifying period during which the investment must be made to start with the issuance of a building permit rather than the first inspection of an improvement on the property. Third, it confirms that the qualifying investment includes personal property and fixtures constructed off site but installed on site. Mr. McClure confirmed this exemption will apply statewide.
- MOTION:** **Rep. Thompson** made a motion to send **H 591** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Gannon** requested to be recorded as voting **NAY.** **Rep. Moyle** will sponsor the bill on the floor.
- H 592:** **Kenneth McClure**, UAMPS, presented **H 592**. This Legislation changes the sales tax exemption for research and development activities conducted at INL. Under current law, property used at INL "primarily" for research and development (R&D) financed by the United States is exempt from sales tax. If R&D activity at INL is conducted in a public-private partnership in conjunction with other non-R&D activities, when the R&D component is not the "primary" use of the entire property, no sales tax exemption is allowed for the research at all. This legislation changes existing law to provide that the portion expended on research will continue to be exempt from sales tax even though non-R&D activities may also be conducted at the property. The property devoted to those non-R&D activities, of course, is not exempt from sales tax. Mr. McClure confirmed this is a three billion dollar undertaking and that other states want this because it is being viewed as cutting edge.
- MOTION:** **Rep. Gannon** made a motion to send **H 592** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Raybould** will sponsor the bill on the floor.

**H 578:** **Representative Clow** presented **H 578**. This amendment to Title 63, Chapter 36, Idaho Code revises the section 63-3611 by expanding the definition of a "retailer engaged in business in this state". This bill establishes that a retailer, selling tangible personal property to Idaho customers, is engaged in business in Idaho, if the out-of-state retailer generates sales of \$10,000 or more through affiliated Idaho persons. It also provides a rebuttable presumption for the retailer. The rebuttable presumption will allow a retailer, so identified, to apply for relief by presenting their rebuttable facts to the Tax Commission. Since 1992, when the Supreme Court decision in Quill vs. North Dakota defined nexus, retailers have embraced technologies that removed the burdens of compliance that was identified in 1992. In 2009 the U. S. Supreme Court upheld a New York Supreme Court decision in Amazon vs. New York State Department of Taxation and Finance. The New York law required out of state retailers to collect and remit sales/use tax on sales to New York customers, if there was an affiliated nexus to New York through sales agreements and other business relationships. On February 22, 2016 in a Colorado case Direct Marketing Association vs. Barbara Brohl (Colorado) the 10th U.S. Court of Appeals upheld a Colorado Law. The case was later denied an appeal to the U.S. Supreme Court.

**Pam Eaton**, Idaho Retailers Association, spoke **in support** of **H 578**. She reiterated that the bill is so important to retailers here in Idaho and it is a fairness issue. Idaho retailers are the ones that sponsor and support local youth programs, sport teams and girl scouts. Ms. Eaton confirmed they are the first in line to help out if there's a natural disaster or local emergency. She stated we are supporting the out of state retailers more than we are the in state retailers and that by not passing this, we are giving out of state retailers more of an advantage than in state retailers.

**John Watts**, Idaho Chamber Alliance, spoke **in support** of **H 578**. He stated this is another attempt to try to level the playing field for retailers and store front businesses in the state of Idaho and it's necessary for fairness and stability in Idaho's business tax environment.

**John Eaton**, Vice President, Idaho Association of Commerce & Industry, spoke **in support** of **H 578**. He stated this would maintain the integrity of the sales tax system and has been identified as a trend by being passed in twenty other states.

**MOTION:** **Rep. Anderst** made a motion to send **H 578** to the floor with a **DO PASS** recommendation.

**SUBSTITUTE MOTION:** **Rep. Hartgen** made a substitute motion to postpone, to amend **H 578** to eliminate the words "in this state" on page 1, line 38 and page 2, line 8.

**SUBSTITUTE MOTION WITHDRAWN:** **Rep. Hartgen** withdrew his substitute motion to postpone, to amend **H 578**.

**SUBSTITUTE MOTION:** **Rep. Hartgen** made a substitute motion to send **H 578** to General Orders with the proposed amendment to eliminate the words "in this state" on page 1, line 38 and page 2, line 8.

**Rep. Erpelding** stated he wants to debate against the motion stating the definition is what is important here and eliminating the words "in this state" does not address the fact that the actual agreement, that which makes them pay the tax, is defined on page 2, line 15, (g) (i).

**VOTE ON SUBSTITUTE MOTION:** **Chairman Collins** called for a vote on the substitute motion to send **H 578** to General Orders with the proposed amendment to eliminate the words "in this state" on page 1, line 38 and page 2, line 8. **Motion failed by voice vote.**

**VOTE ON ORIGINAL MOTION:**

**Chairman Collins** called for a vote on the motion to send **H 578** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Clow** will sponsor the bill on the floor.

**H 558:**

**Sen. Johnson** presented **H 558**. This bill relates to income taxes. The bill will conform the Idaho tax code to changes made to the Internal Revenue Code (IRC) that affect the 2018 taxable year, including but not limited to standard deduction increase, personal exemption elimination, itemized deduction cap, 529 savings plan definition, and miscellaneous business income tax changes. The Idaho income tax code is based on using the federal taxable income as a starting point for both business and individual income tax returns. Additionally, it reduces the personal income tax rate by 0.30% in all tax brackets, and it reduces the corporate income tax rate by 0.30%. In response to a question about reducing the budget by \$95.9 million, Sen. Johnson stated the state is on a trajectory and we can afford it with additional revenues projected in the future. He confirmed that Idaho would be the first state to conform to Section 199A.

**Fred Birnbaum**, Idaho Freedom Foundation, spoke **in opposition** to **H 558**. He stated a third bill is needed to take the goodness out of **H 463** and **H 558**.

**MOTION:**

**Rep. Erpelding** made a motion to send **H 558** to the floor with a **DO PASS** recommendation. **Motion failed by voice vote.**

**ADJOURN:**

There being no further business to come before the committee, the meeting was adjourned at 9:56 a.m.

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Representative Collins  
Chair

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Susan Steed  
Secretary