

MINUTES  
**HOUSE REVENUE & TAXATION COMMITTEE**

**DATE:** Monday, March 18, 2019

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

**PLACE:** Room EW42

**MEMBERS:** Chairman Collins, Vice Chairman Stevenson, Representatives Moyle, Anderst, Dayley, Chaney, Gestrin, Addis, Dixon, Furniss, Giddings, Nichols, Ricks, Erpelding, Ellis, Mason

**ABSENT/  
EXCUSED:** None

**GUESTS:** Mark Wynn, Lamb Weston; Teresa Molitor, RAI Services Co.; Elizabeth Criner, Food Northwest.

**Chairman Collins** called the meeting to order at 8:00 a.m.

**MOTION:** **Rep. Dayley** made a motion to approve the minutes of March 13, 2019. **Motion carried by voice vote.**

**RS 27078:** **Rep. Gannon** stated vaping (use of electronic cigarettes) is epidemic according to the Food and Drug Administration. Any kind of cigarette, including electronic cigarettes, is unsafe. Rep. Gannon informed the committee even his child's own school district has seen an increase in electronic cigarette (e-cigarette or vape) use and sent a note about it to parents. Currently, tobacco products such as cigarettes pay approximately 15% of the product cost in taxes which the newly developed electronic products do not pay. Because of the way in which e-cigarettes are sold, the percentage charge of 15% is the fairest way to assess a tax, which will be sent to the Millennium Fund for educating children and young people regarding the use of tobacco electronic cigarette products. The amount to be raised is not known because Idaho does not keep track of vape sales in Idaho or license vape dealers.

**MOTION:** **Rep. Chaney** made a motion to introduce **RS 27078**.

The committee discussed what parts of an e-cigarette would be taxed, how the tax implementation would discourage children under 18 from vaping, what other states are doing to regulate underage e-cigarette use, current status of licensing and taxation of e-cigarette sellers, and Millennium Funds being specifically directed to educate minors.

**VOTE ON MOTION:** **Motion carried by voice vote. Reps. Giddings and Nichols** requested to be recorded as voting **NAY**.

**RS 27112:** **Rep. Chaney** informed the committee **RS 27112** involves a sales tax exemption for data center equipment. Data Centers are engines of economic growth, and help grow the ecosystem of high tech jobs and high speed fiber-optic cable. They provide a modest number of good paying jobs on an ongoing basis, construction jobs, and supporting industries jobs, such as HVAC and electrical jobs. They attract technological-type industries to move in and around them because of their growing ecosystem of specialized technical labor. **RS 27112** does not require pre-qualification from the Department of Commerce for the exemption and individual companies simply demonstrate they qualify for the criteria. It would exempt purchases only after July 1, 2020, and have a very small impact on existing companies.

In response to committee questions, **Rep. Chaney** said **RS 27112** defines new jobs as jobs that did not exist prior to the data center coming into the state of Idaho, that are non-seasonal, part-time or a transfer job from elsewhere in Idaho and does not exceed the federal hourly wage.

**MOTION:** **Rep. Erpelding** made a motion to introduce **RS 27112**. **Motion carried by voice vote.**

**H 183:** **Rep. Anderst** remarked **H 183** is a final step to conform with the 2017 Federal Tax Cut and Jobs Act ("TCJA"). Conformity is not necessarily about tax increases or deductions but the way in which adjusted gross income is established. In 2017, a conformity bill was passed that dealt with individual income and pass through entities on a business level. In the interim, more information became available regarding the components of corporate conformity, and this legislation is straight conformity to the Internal Revenue Code (IRC). **H 183** at page 2, line 13 conforms with federal law and allows Idaho corporations to have the same deductions at the state level that they receive at the federal level. Because this is income derived in foreign countries which was previously not being declared and taxed, it will result in a net increase in collections to Idaho. IRC §965 deals with repatriation income, which is income made in prior years being held offshore. The federal law to which Idaho conformed in 2017 required all this money to be declared and taxes paid on it. In order to soften the blow, the US Congress provided a deduction for this type of income in IRC §965. By removing §965 from the list of exemptions in Idaho Code, Idaho taxpayers will be allowed to apply the same deduction as they do at the federal level. Idaho also conformed with the IRC where it required companies to declare foreign income every year moving forward. IRC §245A says that if a company pays enough taxes in a foreign country, it will not be required to pay taxes in the United States. By removing §245A from the list of exemptions to conform, **H 183** makes sure that Idaho companies won't be taxed on the state level for something they are not being taxed for at the federal level. IRC §250 does two different things, first, if a company declares foreign earnings every year moving forward but does not pay enough tax in a foreign country to qualify for a §245A deduction, it will have to pay a GILTI tax. Idaho already conforms with the GILTI tax but not with the §250 deduction allowed prior to being charged the GILTI tax. By removing §250 from the list of exemptions Idaho companies will be able to use, they will be able to use the same deduction on their state taxes they are allowed on their federal taxes. Finally, §250 also created a new deduction to incentivize US manufacturers to manufacture in the US and export those products. This is particularly important to Idaho since it is an exporting state. The TCJA eliminated a credit for manufacturing in the US and replaced it with a more narrow deduction for manufacturing that is an export, which is known as the FDII deduction. Conforming to the FDII deduction allows Idaho companies to use the deduction on Idaho taxes for manufacturing in Idaho that is exported to a foreign country. If Idaho does not conform to this section, there will be a disincentive for companies to manufacture in the state. The three sections of federal conformity in **H 183** are IRC §965, 245A and 250. From a competitiveness standpoint, this federal conformity helps Idaho maintain a level playing field with other states.

In response to committee questions regarding the fiscal note and the total cost to the state of **H 183**, **Rep. Anderst** said the fiscal note presents the net effect to the General Fund, which is a \$7.7 million, a \$12.8 million and a \$2.9 million increase over the next three years. **H 463** informed Idaho businesses that, in conformity and under its provisions, they had to bring money back and took away the deductions that would have otherwise been offset in other areas of code and pay their adjusted gross income without those deductions. **H 183** gets back to the point where the deductions are allowed, which is a competitive and fairness issue with other states who have already conformed to these deductions. Rep. Anderst further replied that to receive the retroactive refund, a company would amend their tax returns.

**Mark Wynn**, Lamb Weston, who is responsible for all of Lamb Weston's filings worldwide and in all 50 states, is called upon to answer complex technical committee questions concerning whether provisions in **H 183** allow "double dipping" or a doubling of deductions, and the probability of **H 183** providing advantages to Idaho, including a competitive edge on a multinational basis, development of manufacturing for export purposes, and the likelihood of repatriated money staying in Idaho. Mr. Wynn indicated this bill will allow Idaho to be competitive relative to other states. He said the federal government effectively modified their rules so US companies generally are never double taxed on their foreign income, which he opines is a good policy that allows US multinational companies to be more competitive relative to foreign competitors and enables Idaho companies and companies operating in Idaho to be competitive on a multinational basis. Mr. Wynn said the repatriation provision in IRC §965 requires that all funds not previously repatriated to the US are now required to be repatriated, but there is no requirement to bring that cash back and in some cases companies have already reinvested or spent that cash. However, under §965, they are going to be taxed on it. He provided the committee information on the three components, the various interest rates, and the foreign tax credit for foreign taxes paid in § 965, and Idaho's lack of a foreign tax system. If Idaho conforms it will have three tiers similar to the federal tiers relative to § 965 which would not be the same as the federal system but akin to it.

In response to committee questions regarding the 2018 taxes costs, **Mr. Wynn** replied \$13.6 million is revenue under the currently enacted conformity. The costs of refunds associated is included in FY 2019.

**Sen. Hill** was called upon to answer questions from the committee regarding the interim committee and why they did a tie back to **H 463**. Sen. Hill responded with the reasons **H 463** is listed in the fiscal note and provided a detailed explanation to the committee of the spreadsheet in the fiscal note.

**Rep. Anderst** closed by saying two years ago the federal government decided they wanted to bring foreign dollars back to the US and incentivize manufacturing and export. Idaho's tax policy came out of the federal legislation and Idaho's conformity has been consistent up to this point. There is one step left in that conformity, and this is that step. Dollars sitting somewhere else need to come back and have taxes paid on them now and every year in the future to give incentive for Idaho manufacturing and exporting of products. That is what **H 183** does, and he hopes Idaho is not put at a disadvantage by not passing it.

**MOTION:**

**Rep. Chaney** made a motion to send **H 183** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Anderst** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 9:18 a.m.

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Representative Collins  
Chair

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Lorrie Byerly  
Secretary