MINUTES

HOUSE REVENUE & TAXATION COMMITTEE

DATE: Wednesday, March 02, 2022

TIME: 9:00 A.M.

PLACE: Room EW42

MEMBERS: Chairman Harris, Vice Chairman Addis, Representatives Moyle, Chaney, Gestrin, Dixon, Nichols, Kauffman, Adams, Cannon, Hartgen, Manwaring, Okuniewicz, Weber, Shepherd, Necochea, Ruchti

ABSENT/ EXCUSED: Chaney, Okuniewicz, Adams

GUESTS: The sign-in sheet will be retained in the committee secretary's office; following the end of the session the sign-in sheet will be filed with the minute in the Legislative Library.

Chairman Harris called the meeting to order at 9:00 a.m.

H 678: **Rep. Manwaring** presented **H 678.** The legislation is about the Idaho Semiconductors for America Act. This act exempts sales tax on the purchase or use of building materials that would be used to construct, expand, or modernize a semiconductor facility in Idaho. It represents a tax relief incentive for U.S.-sponsored expansions in Idaho. The goal is to protect U.S. research, manufacturing, and intellectual property.

The wage impact of semiconductors in Idaho right now is $4.5 billion, so Idaho companies are in a good position to qualify for federal investments, including the Federal Chips Act. To qualify for this Idaho incentive, a semiconductor company must also qualify for the federal act by December 2026. Qualified entities have to qualify for a meaningful incentive offered by the Federal Government. Secondly, these qualifying entities must also qualify for a meaningful Idaho incentive, like the Idaho Reimbursement Incentive Act or the Idaho Small Employer Incentive Act. The impact on sales tax, if all three of these qualifying projects were exempted, would be about $18 million in return for $620 million in wage impacts.

Mr. Jake Reynolds, business development and operations Administrator for the Idaho Department of Commerce, explained that semiconductors are the brains of modern electronics, and can be found in every electronic device we have. Semiconductors are in every industrial, commercial, military system, electrical system, and the electrical grid. Semiconductors are critical to national security. If a potential adversary bests the United States in semiconductors over the long term or suddenly cuts off our supply of these cutting-edge chips, it would gain the upper hand in almost every aspect of warfare. According to the U.S. Semiconductor Manufacturing Association, the U.S. global semiconductor manufacturing was at 70% in 1990 and is expected to be down to 10% by 2030. China is on track to be the lead in the industry in 2030. The U.S. Senate passed in June of 2021 the United States Innovation and Competition Act, which included a $52 billion package chips act that was aimed to bolster chip manufacturing, research, and development. And once funded, Idaho and other states will be fiercely competing for the $52 billion. States including Texas, Arizona, and Ohio have recently announced new multi-billion dollar semiconductor projects and passed aggressive legislation and incentives to make their states more competitive when these funds come into play.

The Semiconductor Industry Association estimates a $52 billion package would add $24.6 billion to the U.S. economy and create an average of 185,000 temporary jobs over the six-year buildout period. The cumulative impact on such an incentive program on U.S. Gross Domestic Product (GDP) would be $177 billion and we would create 1.1 million jobs. Idaho is currently number six in the Nation for the semiconductor workforce, with an employment share of 4%. In 2020, there are approximately 50 semiconductor facilities in the state of Idaho, and it produces $2.5 billion in GDP for our state. This legislation is critical to maintaining Idaho's competitiveness and in supporting Idaho's long history of semiconductor fabrication, innovation, and our largest advanced manufacturing industry in the state.

Mr. Fred Birnbaum, from Freedom Foundation, expressed his opposition to the bill, as it would give incentives to some of the wealthiest corporations in the world. He expressed concerns about incentivizing the construction of a large facility which could then hire people that would compete with the existing small businesses, given that the unemployment rate is very low.

Rep. Necochea and Rep. Ruchti expressed their support for the bill.

Rep. Nichols expressed support for the bill, but reserved the right to change her vote on the floor, after getting more feedback from constituents and small businesses.

MOTION: **Rep. Weber** made a motion to send the **H 678** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Manwaring** will sponsor the bill on the floor.

H 689: **Rep. Manwaring** introduced **H 689** explaining the bill is relative to the responsibilities and delegations of authority at the State Tax Commission. This legislation ensures the Commission operates as a commission and the majority of the commission has oversight of its statutorily assigned duties. The primary change from the last session bill, **H 214**, is the change in language that said a single commissioner could request a decision item be put before the Commission for review of the full Commission. The current proposed bill permits the review by request by a sustaining vote by the majority of the Commission. The chairman can still assign responsibilities, but a majority of the Commission can review and sustain them.

Rep. Moyle declared Rule 80 stating a possible conflict of interest.

MOTION: **Rep. Gestrin** made a motion to send **H 689** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Manwaring** will sponsor the bill on the floor.

H 690: **Rep. Monks** introduced **H 690.** This bill is a surplus eliminator. A surplus is money that remains after budgets are set, payments are accounted for, and the year is completed. The State had an average of $58 million in surplus eliminators per year for the past 8 years, excluding the outlier numbers for 2021.

The bill would move the surplus money available at the end of the year, up to $80 million. Half would go to the cities and half to the counties. This extra money would be used to reduce property taxes.

If the amount reaches the max of $80 million, the tax relief for the average homeowner would be up to 4%. The Controller's office determines at the end of the Fiscal Year whether or not there is a surplus, identifies its amount, distributes half to cities and half to the counties. Counties are, then, directed to use the extra money received for property tax relief. The bill also has language that encourages paying off bonds but is not mandatory.

Mr. Fred Birnbaum, from Freedom Foundation, expressed his opposition to the bill, as it is not impacting the base, and counties are encouraged and not required to first use monies to pay off bond indebtedness. The bill is using General Fund money and feeding it into a stream that could be used to generate a thirst for new bonds. In addition, people that are living in a county, but not in a city, would get a lower relief because half the money goes to cities and a half to counties.

Rep. Nichols expressed support for the bill but reserves the right to change her vote on the floor.

MOTION **Rep. Necochea** made a motion to send **H 690** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Monks** will sponsor the bill on the floor.

H 677: **Rep. Addis** introduced **H 677**. This bill protects Idaho businesses from being taxed by out-of-state taxing entities for sales or other business within Idaho with a non-resident who is in Idaho. In May 2019, Oregon Governor Kate Brown signed into law **H 3427**, which adopted a new corporate activity tax (CAP Tax). The CAP Tax is imposed on Oregon businesses for the privilege of doing business in Oregon and is taxed on almost all tangible personal property. Oregon businesses with $750,000 in annual sales are required to register. With $1 million in business with Oregon citizens, .57% of all sales revenue are required to be remitted to the Department of Revenue.

To fund Oregon's calculation system, Oregon is using this law to reach into Idaho to tax Idaho businesses doing business in Idaho. This is because receipts from the sales of tangible personal property are considered by Oregon if the property is delivered to a purchaser in Oregon regardless of whether they take possession of the item.

The Attorney General provided an opinion on the scenario addressed by the bill where Idaho businesses have no business activities in Oregon. They think there is a good reason to think that a substantial nexus does not exist and Oregon is violating the due process clause and commerce clause in catching Idaho business. Idaho businesses selling and delivering goods in Idaho to an Oregon customer seems to be an insubstantial connection to Oregon. It is worth noting that Washington has a similar tax.

This bill has no civil penalties but is a statement that protects Idaho businesses and provides them some standing to solve the issue.

Rep. Ruchti supports the legislation but expresses some concern as Oregon's law looks like a violation of the commerce clause and this should be addressed by the judicial branch.

MOTION: **Rep. Shepherd** made a motion to send **H 677** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Rep. Addis** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 10:16 a.m.

Representative Harris Chair	Anna Maria Mancini Secretary