

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 01, 2018

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Johnson, Vice Chairman Bayer, Senators Siddoway, Vick, Patrick, Burgoyne, and Nye

ABSENT/ EXCUSED: Senators Hill and Rice

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Johnson** convened the meeting of the Local Government and Taxation Committee (Committee) at 3:00 p.m.

H 515 **Relating to Taxation, College Savings Plan. Christine Stoll**, Executive Director, IDeal College Savings Program, presented **H 515**. **Ms. Stoll** explained IDeal is Idaho's State-sponsored college savings program. The purpose of the program is to provide a taxpayer-friendly mechanism for individuals and families to save for higher education. **Ms. Stoll** explained that nonqualified withdrawals are disbursements from 529 accounts that are used for non-educational purposes. The federal government taxes these types of withdrawals differently than the State.

H 515 seeks to amend Idaho Code § 63-3022(o) to apply tax to the earnings portion only of the amount withdrawn, and only when no state tax deduction was previously taken. If a state tax deduction was taken, the State may recapture the previously exempted principal amount, as well as apply tax to the earnings portions. Under current statute, the State taxes the entire withdrawal, regardless of whether a tax deduction was taken. **Ms. Stoll** pointed out this creates a circumstance of double taxation for Idaho families.

The second proposed change pertains to rollover funds into a 529A: Achieving a Better Life Experience (ABLE) account. **Ms. Stoll** explained that the Tax Cuts and Jobs Act allows taxpayers to rollover funds from a qualified 529 plan into an ABLE account. **H 515** seeks to amend Idaho Code § 63-3022(p) to require a two-year recapture on a roll out to an ABLE program when a state tax deduction was taken. The intent is to prevent the use of a qualified 529 program as a way to receive a state tax deduction for an ABLE account.

DISCUSSION: **Senator Siddoway** asked Ms. Stoll to distinguish between 529 programs and similar programs administered by financial planners. **Ms. Stoll** explained that 529 programs are governed by a State entity, as required by federal law. The IDeal College Savings Program is Idaho's only State-sponsored 529 program. Plans that are administered by financial planners are not affiliated with IDeal, and contributions to such plans are not eligible for a state tax deduction. **Senator Siddoway** sought clarification regarding the two-year recapture of contributions rolled into an ABLE account. **Ms. Stoll** replied that the two-year recapture applies to the tax deduction portion of the rollover, which aligns with the current treatment of rollouts to other 529 programs. **Senator Siddoway** then asked her to explain how to enroll in the IDeal program. **Ms. Stoll** explained that registration with IDeal is completed online. Taxpayers may elect to take a deduction on these contributions, which must be made by December 31, when filing their annual tax return.

Chairman Johnson asked why the federal government institutes a ten percent penalty for a qualified withdrawal. **Ms. Stoll** surmised the intent is to encourage the use of these funds for educational purposes.

MOTION: **Senator Siddoway** moved to send **H 515** to the floor with a **do pass** recommendation. **Senator Patrick** seconded the motion. The motion passed by **voice vote**.

H 591 **Relating to Tax Exemptions for New Capital Investments.** **Ken McClure**, representing Utah Associated Municipal Powers Systems (UAMPS), presented **H 591**. **Mr. McClure** briefly outlined the project being implemented at the Idaho National Laboratory (INL) through a partnership between UAMPS, INL, and the United States Department of Energy. The project will deploy the new technology of small modular reactors developed by NuScale Power, which is undergoing the process of federal licensure for commercial use. **Mr. McClure** commented this project will provide the opportunity to incentivize the construction of large facilities with significant capital expenditure in Idaho. Under current law, the assessment for an investment of at least \$1 billion in real and personal property, made within a seven-year period, is capped at \$400 million.

H 591 seeks to make three changes to Idaho Code § 63-4502 pertaining to tax exemptions for new capital investments of at least \$1 billion, which include: 1.) to add operating property to the definition of qualifying new capital investment that is exempt from taxation; 2.) to require the beginning of the qualifying period to start with the issuance of a building permit, rather than the first inspection of the property; and 3.) to include property and fixtures that are constructed off site, and installed on site, as qualifying investment. **Mr. McClure** stated nuclear reactors in this instance will be made in a factory, then shipped to and installed on-site.

DISCUSSION: **Senator Siddoway** expressed concern about the qualifying period beginning with the issuance of a building permit. **Mr. McClure** responded that exemption for new capital investments is distinct from other similar exemptions. He felt that much of the investment in a multi-billion dollar project is in the construction. The exemption should include the costs of the project in its entirety, rather than the portion incurred after the first inspection. **Senator Siddoway** said requiring a company to petition for reimbursement for taxes paid after project completion is a more appropriate approach. **Mr. McClure** acknowledged reluctance for creating new incentives in this regard. This proposal is an attempt to work within the existing framework of the law.

Chairman Johnson asked Mr. McClure to analyze how this exemption will be applied annually for the first five years. **Mr. McClure** responded the tax exemption will not be applied until the project reaches \$1 billion in assessed valuation; additional increments above that do not go into the tax base.

MOTION: **Senator Siddoway** moved to send **H 591** to the floor with a **do pass** recommendation. **Vice Chairman Bayer** seconded the motion. The motion passed by **voice vote**.

H 592 **Relating to Tax Exemptions for the Idaho National Laboratory.** **Ken McClure** presented **H 592**. This legislation seeks to amend Idaho Code § 63-3622BB to clarify provisions of the sales tax exemption for research and development activities conducted at INL. **Mr. McClure** stated the proposed facility will be partially used for research and development, but mostly used for power production. Under current law, the existing sales tax exemption for research facilities at INL will no longer be available. **Mr. McClure** indicated two of the twelve modular reactors will be used for research and development purposes. This bill seeks to clarify that the portion of the facility used for research and development will continue to be exempt from sales tax, even though it is not the primary use of the property.

- TESTIMONY:** **Liz Paul**, representing the Snake River Alliance, spoke in opposition to **H 591** and **H 592**. **Ms. Paul** argued nuclear power is a dying industry that should not be subsidized by Idaho taxpayers. Nuclear reactors are water-intensive, which will significantly impact water resources in agricultural communities. Additionally, she felt that a sunset provision should be added to the proposed tax exemption for research and development activities at INL.
- DISCUSSION:** **Chairman Johnson** asked Ms. Paul to comment on the role of nuclear energy and carbon-free energy sources. **Ms. Paul** commented on the environmental and economic impacts of nuclear energy versus other renewable energy sources. She asserted that nuclear energy is not a viable long-term energy source.
- Senator Patrick** asked how nuclear reactors process water. **Ms. Paul** did not provide a technical explanation but stated that water rights should be allocated for this particular use.
- TESTIMONY:** **David Monsees**, representing himself as an Idaho citizen, spoke in opposition to **H 591** and **H 592**. He commented on the safety of nuclear reactors and the effects of nuclear waste in general.
- DISCUSSION:** **Senator Nye** asked Mr. Monsees to comment on the tax implications of the proposed legislation. **Mr. Monsees** said that, even with federal subsidies, nuclear energy is an expensive option for consumers. He also questioned the overall viability of the project.
- Senator Nye** thanked the Snake River Alliance for their testimony and acknowledged the concerns raised during testimony. He clarified that **H 591** and **H 592** do not address safety or regulatory issues regarding nuclear power; the application of tax is the only issue under consideration.
- TESTIMONY:** **Mr. McClure** returned to the podium to comment on technical considerations of the proposed project. He stated that the small modular reactors being developed use substantially less water than traditional reactors. These reactors do not require large cooling towers to steam off excess water.
- Bob Temple**, General Counsel, NuScale Power, addressed questions regarding the enrichment of uranium. He stated these reactors will use low-enriched uranium; the United States Nuclear Regulatory Commission is currently evaluating the safety of the reactors before design approval. **Mr. Temple** asserted these reactors will be significantly safer than other nuclear technology currently in operation. He also provided that the reactors will use substantially less water than larger facilities.
- DISCUSSION:** **Senator Vick** asked if solar power is less expensive than nuclear power. **Mr. Temple** replied that solar power is not less expensive. To provide energy 24 hours per day, a solar field requires a natural gas plant. Consumers ultimately pay for infrastructure for two separate systems. The proposed nuclear technology, according to **Mr. Temple**, is a more viable source of carbon-free electricity than solar energy. **Senator Vick** asked for a relative cost comparison. **Mr. Temple** explained, given the costs of additional infrastructure for solar power, nuclear energy is approximately half the cost of solar energy.
- Vice Chairman Bayer** recognized the value of research and development in this regard, which has a broader application than simply power production. He commented this legislation will facilitate the partnership between public and private entities, and such partnership is vital for the development of technology.
- MOTION:** **Vice Chairman Bayer** moved to send **H 592** to the floor with a **do pass** recommendation. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**.

**MINUTES
APPROVAL:**

Senator Vick moved to approve the Minutes of February 13, 2018. **Vice Chairman Bayer** seconded the motion. The motion carried by **voice vote**.

Senator Siddoway moved to approve the Minutes of February 14, 2018. **Vice Chairman Bayer** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Johnson** adjourned the meeting at 4:15 p.m.

Senator Johnson
Chairman

Jennifer Carr
Secretary