

MINUTES
(Subject to Approval by the Council)
Legislative Council
Tuesday, November 30, 2021
8:30 A.M.
Room WW02
Boise, Idaho

Pro Tem Winder called the meeting to order at 8:35 a.m.; a silent roll call was taken.

Legislative Council (Council) members in attendance: Speaker Scott Bedke, Pro Tem Chuck Winder, Senators Kelly Arthur Anthon, Carl Crabtree, Dave Lent, Michelle Stennett, and Melissa Wintrow; Representatives Mike Moyle, John Vander Woude, Wendy Horman, John McCrostie, and Brooke Green. Legislative Services Office (LSO) staff present: Director Terri Kondeff, Deputy Director Paul Headlee, Shelley Sheridan, and Julie Cooper.

Pro Tem Winder called for a motion to approve meeting minutes. **Speaker Bedke made a motion to approve the July 13, 2021 minutes; Senator Lent seconded the motion. The motion passed by voice vote.**

Director's Report- Terri Kondeff, LSO Director

Director Kondeff provided a brief overview of the binder and agenda distributed to committee members. Director Kondeff reported that there have been several staffing changes within LSO. Director Kondeff informed the Council that Paul Headlee is the new Deputy Director for LSO and Keith Bybee promoted to the Division Manager for Budget and Policy. In addition Jared Tatro promoted to Deputy Division Manager for the Budget and Policy Division. Director Kondeff continued and introduced new LSO staff: Trevor Ahrens, Research and Legislation; Brian Rice and Erin Phipps, Central Administration; Jon Hetherington, Information Technology ; Justin Jones, Audit; Nate Osborne, Frances Lippitt, Angela Haugh, Matt Farina and Tim Hibbard, Budget. Pro Tem Winder added that Senator Bair will be taking leave due to family issues and Senator Agenbroad will Chair the Joint Finance-Appropriations Committee (JFAC) and Representative Youngblood will co-chair.

Director Kondeff referred the Council to Tab 1 of the meeting binder regarding the approval of 2023 LSO Budget Request. Director Kondeff shared with the Council that the funding for laptops will be requested from ARPA (State Fiscal Recovery Fund). **Representative Horman made a motion to adopt the 2023 LSO Budget Request and Senator Anthon seconded the motion. The motion passed by voice vote.** Director Kondeff proceeded to discuss the approval of the Idaho Legislature FY 2022 Strategic Plan. Director Kondeff instructed the Council to review page 14 which contained several changes to Objective 2. **Speaker Bedke made a motion to approve the Idaho Legislature FY 2022 Strategic Plan; Senator Stennett seconded the motion. The motion passed by voice vote.**

2022 Legislative Session Plans

Pro Tem Winder referred the Council to the 2022 legislative calendar (Binder - Tab 2). Winder highlighted the State of the Governor's State of the State on January 10, 2022 and the Respective Workplace Training on January 11, 2022. Pro Tem emphasized the importance of the training and informed the Council that attendance will be mandatory.

Interim Committee Updates

- **Expenditure of ARPA Funds Committee** - LSO Deputy Director Paul Headlee provided a brief summary of the action taken by this committee (Binder-Tab 3). Mr. Headlee explained that the committee met on July 29, 2021 where he presented the Committee with the LSO Report 02-21-Updated Review of the American Rescue Plan Act of 2021 (ARPA report). Mr. Headlee

clarified that the ARPA report includes two parts: Part 1 refers to programs requiring legislative appropriation and Part 2 refers to programs not requiring legislative appropriation. Mr. Headlee added that Part 1 identifies 54 funding programs totaling \$2.5 billion. The presentation to the Committee focused on the State Fiscal Recovery Fund program that includes \$1.1 billion that may be used in any combination for four categories. Mr. Headlee informed the Committee that state agencies can begin requesting ARPA funds through their FY 2023 budget requests due by September 1, 2021. Mr. Headlee completed his presentation to Council and noted that the Committee did not make any recommendations or propose any legislation. Representative Horman asked Mr. Headlee if local funds could be used for tax relief. Mr. Headlee replied no, but he has requested clarification on the issue. Representative Vander Woude commented that there will be a lot of agencies making requests, but we don't have any rules for reviewing the requests. Mr. Headlee explained that many programs have guidance and that it is primarily the large fund that needs guidance. Mr. Headlee is hopeful we should have the guidance needed by February or March 2022.

- **Property Taxes and Revenue Expenditures Study Committee-** LSO Research and Legislative Division Manager Kristin Ford presented to the Council a summary of the action of the Committee on Property Taxes and Revenue Expenditures (Binder - Tab 3). The Committee met on August 27, 2021 and October 29, 2021. Ms. Ford explained that the Committee did not propose any legislation or make any recommendations, but they received information on and considered the following:

Ongoing progress with the State Controller's implementation of the Local Governmental Entities' Uniform Accounting Registry project for increased transparency of financial data reporting.

Assessment methods that eliminate tax shifts (replacement cost methodology vs. exemption methodology) and a dynamic property tax exemption model.

Allowing highway districts to levy impact fees.

Excess fund balances held by local governments.

Phasing out school supplemental levies and replacing the funding with additional sales tax monies.

Improving cash flow for local taxing districts by increasing the frequency of tax distributions from the state from quarterly to monthly.

Changes to the homeowner's exemption and the circuit breaker program.

Changing the distribution of property taxes between urban renewal districts and local government. Following the presentation Senator Wintrow shared that she recently met with the Association of Cities and wants to ensure that cities are receiving the information they need.

- **Committee on Federalism-** LSO Research and Legislation Division Manager Kristin informed the Council on the action by the Committee on Federalism (Binder - Tab 3). Ms. Ford shared that the Committee met on September 22, 2021, September 28, 2021, October 4, 2021 and November 18, 2021. The topic of the Biden Administration's Covid-19 vaccine mandates was discussed at the meeting on September 22, 2021. During this meeting the committee took testimony from citizens and learned about the history, use and procedures associated with the federal Emergency Temporary Standard for promulgating federal rules. During the meeting on September 28, 2021, the Committee heard presentations from the Attorney General's Office regarding the placement of refugees in Idaho by the federal government and the lawsuit against Idaho for the termination of the federal extended unemployment benefits program. At the meeting on October 4, 2021, the Committee reviewed draft legislation presented by 5 legislators on the topic of the federal vaccine mandates and voted to recommend one to the Legislature. On November 18, the Committee heard presentations on policy requirements associated with federal funding received by Idaho on the proposes IRS regulation requiring banks to make disclosures to it of certain money transfers. Ms. Ford informed the Council that the Committee did recommend

that federal vaccine draft legislation similar to DRKMF656 be considered by the Legislature. The Legislature did so on November 15 - 17, 2021.

- **Committee on Federalism(2 of 2)** Ms. Ford introduced LSO Research and Legislation Deputy Division Manager Katharine Gerrity to complete the summary of the action by the Committee on Federalism. Ms. Gerrity clarified that, in addition to the other matters addressed at the September 28, 2021 meeting, the Committee also had a presentation from Ms. Julie Weaver, Contract and Administrative Law Division, Office of Attorney General. Ms. Weaver provided information related to the Request for Proposal(RFP) process in relation to HCR 8(2021) and SB 1207 (2021)which called the committee to study the impact of the payment in lieu of taxes program in Idaho. The Committee voted to proceed with a Request of Information (RFI) prior to issuing the RFP. At the November 18, 2021 meeting, the Committee agreed to proceed with the RFP with a closing date of January 14, 2022.
- **Natural Resources Interim Committee-** Ms Gerrity reported that the Natural Resources Interim Committee met on September 27, 2021 (Binder -Tab 3). The Committee heard several presentation and there were no recommendations made. ProTem Winder shared that some groups have suggested the Legislature look at a different point system for the draws. Pro Tem Winder asked Ms. Gerrity if she could provide additional information on this issue and Ms. Gerrity stated she would lookinto the issue. A final report will be prepared by the Committee and submitted to the First Regular Session of the Sixty-seventh Idaho Legislature.
- **Occupational Licensing and Certification Laws Committee-** LSO Drafting Attorney Matt Drake informed the Council that the Occupational Licensing and Certification Laws Committee did not receive any applications for sunrise review in 2021. As such, the Committee was not required to hold any meetings during the 2021 interim. Mr. Drake shared that, beginning in the 2022 interim, the Committee will conduct sunset reviews on each licensing authority on a rotating basis. Senator Stennett asked Mr. Drake if he had an idea of how many licensing authorities would be sensitive. Mr. Drake responded that the statute requires an annual schedule and there will be approximately 5 per year. Representative Vander Woude inquired as to whether licenses have sunsets. Mr. Drake explained that the licenses themselves do not have sunsets.
- **Idaho Council on Indian Affairs-**Mr. Drake shared that the Idaho Council on Indian Affairs met on August 16, 2021 and heard updates related to reapportionment, the American Rescue Plan Act and the Historic Highway Markers Program (Binder - Tab 3). Behavioral health and infrastructure matters should be discussed at the next meeting.
- **Criminal Justice Reinvestment Oversight Committee-** LSO Drafting Attorney Ryan Bush provided a summary of the Criminal Justice Reinvestment Oversight Committee meeting held on September 17, 2021 (Binder-Tab). Mr. Bush shared that the Committee had heard a presentation from Department of Corrections Director Josh Tewalt. There were no recommendations made, but a progress report will be prepared and submitted to the Second Regular Session of the Sixty-sixth Idaho Legislature.
- **Child Protection Legislative Oversight Committee** LSO Drafting Attorney Elizabeth Bowen informed the Council that the Child Protection Legislative Oversight had not met, but was working to schedule a meeting for December 10, 2021.
- **Committee on Uniform Accounting and Transparency** LSO Audits Division Manager April Renfro reported the Committee on Uniform Accounting and Transparency met on September 24, 2021(Binder - Tab 3). The committee received an update on the data transfer progress related to counties, cities and school districts, challenges encountered, and the Uniform Accounting Manual. Ms. Renfro stated that there was no legislation proposed at the meeting

State Budget and Revenue Update

LSO Budget Division Manager Keith Bybee directed the Council to a PowerPoint presentation to provide a state budget and revenue update (Binder Tab 4). Mr. Bybee reviewed the FY 2021 General

Fund, the history of the Reserve Fund, the FY 2022 Budget in which he noted that there is currently an estimated \$1.5 Billion ending balance. Mr. Bybee then introduced LSO Revenue Analyst Erin Phipps. Ms. Phipps gave an overview of the FY 2022 Monthly Revenue Monitoring Report and then directed the Council to new reports that will be available on our website by early January. Ms. Phipps emphasized that the reports act as a supplement to previous reports, not replacements. Ms. Phipps closed her presentation by directing the Council to select topics from the Idaho Economy and Revenues and Appropriations sections of the Fiscal Facts publication. Ms. Phipps shared that she wanted to update the list to make it dynamic and easier to navigate. She is working with the Information Technology Division to have it live on our website by early January.

The Council recessed at 10:20 am and reconvened at 10:40 am. Pro Tem Winder welcomed back the Council and informed the Council that he had received an inquiry as why the meeting was only streaming audio; no video. Winder explained that the Legislature does stream video when it's possible and it may be something to revisit in the future.

Statehouse Facility Update

Barry Miller with the Public Works Division within the Department of Administration provided the Council with a facility update on the Statehouse(Binder - Tab 5). Specifically, Mr. Miller shared that the scaffolding and window glaze replacement would be complete next week. Mr. Miller also shared that the projectors will be replaced in all the committee rooms. Further, Mr. Miller reported that they will be doing a few security upgrades which include security access on the committee doors. In addition, tie off points will be added to the roof to provide fall protection. Mr. Miller shared that other projects include replacing the discoloration on the roof over JFAC, renovations to the old Treasurer's Office space and new bike racks. Pro Tem Winder shared a concern regarding the lower part of the front steps. He explained that there is an illusion that the step and side walk are at the same level and adding something to distinguish the difference could prevent individuals from getting hurt. Mr. Miller replied that facilities will look into that concern.

Redistricting Update Keith Bybee and Elizabeth Bowen provided an update to the Council regarding the Redistricting Commission (Binder - Tab 6). Mr. Bybee shared the status of the Commission's work, as well as a time line. Mr. Bybee further explained that there were two court challenges filed regarding the Commission's work. The Courts have consolidated the two cases and final arguments will be heard in January. Ms. Bowen informed the Council that the Commissioners drafted a letter that they would like to submit to the Council in the near future. Ms. Bowen further explained that the Commission encountered requests during their work that they were unable to address due to current state law. The Commission did not have recommendations for the Council, they just wanted to inform the Council regarding the issue.

Information Technology Update LSO Information Technology Division Manager Glenn Harris reviewed a report of IT projects completed during 2021, as well as current and future projects (Binder - Tab 7). Mr. Harris emphasized that 2021 brought a lot of changes and obstacles that the Division was able to accommodate. Senator Stennett and Representative Horman both extended their gratitude for the Division's ability to make remote testimony possible. Mr. Harris reported that the technology is now in place for remote testimony for any committee. Pro Tem Winder shared that the Senate will allow remote testimony in all committee meetings and the House Committee chairs will determine if remote testimony will be offered. Representative Horman and Pro Tem Winder emphasized the value and benefits of remote testimony. In addition, Representative Horman commented that the spam filter is currently not working well and she hopes a new version will be in place when the 2022 session begins.

Legislative Audit Update - Review of Findings LSO Legislative Audits Division Manager shared an update on the Audit Division(Binder - Tab 8). Ms. Renfro shared the Division currently has 4 vacancies and 25 filled full-time position. Ms. Renfro reported that the Division recently received draft financials from the State Controller and the Division is working on agency support and

compilation audit work. In addition, the Division has started planning and conducting audit work for a very heavy single audit season and management reviews for FY 2021 will start in March and April and continue through the summer. Ms. Renfro shared that the Division recently received a peer review and received the highest rating of pass. During the Council's meeting on June 5, 2020, the Council authorized Central District Health and Southwest District Health to procure audits from external audit firms. As of November 5, 2021 the Division has received FY 2019 and FY 2020 Central District audit and FY 2018 and FY 2019 Southwest District Health audit. In addition, the Division recently submitted the Pupil Transportation Program report. The report covered the fiscal years that ended June 30, 2019 and June 30, June 2020. The review focussed on procedures and internal controls. Specifically the Division reviewed the Department of Education's procedures utilized for the calculation and application of the pupil transportation funding formula, payments made to school districts and public charter schools, and the Department's overall administration of the program. The review found that, overall, the Department complied with applicable Idaho Code sections in properly calculating and applying the pupil transportation funding formula, properly reviewing reimbursement claims and conducting spot inspections. The review did include some findings and recommendations(Binder-Tab 8).

Office of Performance Evaluations Update Office of Performance Evaluations (OPE) Director Rakesh Mohan provided an overview of completed reports, as well as a summary of upcoming evaluation reports (Binder Tab 9). In March 2021, the Joint Legislative Oversight Committee assigned OPE four new evaluations. These include Volunteer Providers and Emergency Medical Services, Public K-12 Facilities, Medicaid Provider Payments and Criminal Justice.

Miscellaneous Announcements and Adjournment

There being no additional business, the Council adjourned at 11:50 a.m.