

MINUTES
JOINT FINANCE-APPROPRIATIONS COMMITTEE

DATE: Monday, November 15, 2021

TIME: 1:45 P.M.

PLACE: Room C310

MEMBERS PRESENT: Senators Co-chairman Agenbroad, Crabtree, Bair, Grow, Woodward, Lent, Riggs, Cook, Ward-Engelking, Nye

Representatives Co-chairman Youngblood, Troy, Horman, Amador, Syme, Bundy, Giddings, Nate, Green, Nash

ABSENT/ EXCUSED: Senators Agenbroad and Riggs

CONVENED: **Co-Chairman Youngblood** called the Joint Finance-Appropriation Committee (Committee) (JFAC) to order at 1:50 p.m. He welcomed members and introduced the presenter.

H 409: **Rep. Dixon** explained **H 409** to the members of the committee. The bill aims to create a litigation fund to prevent federal overreach to protect Idaho citizens. It would have an initial appropriation of \$2 million with two exemptions from chapter 35, title 67, Idaho Code and chapter 36, title 67, Idaho Code.

In response to Committee questions, **Rep. Dixon** said it is not duplicative to other funds and would be used specifically for federal overreach. He explained that the exemptions allow the Speaker and Pro Tempore to act and appropriate the fund without having to go through the normal appropriation process.

Rep. Nate asked if there are any other legal defense or litigation funds besides the two funds that were already mentioned and requested the current balances in the constitutional defense fund and the legal defense fund before the vote from the committee.

In response to a Committee question regarding the governor's role in defending the state of Idaho against federal overreach and if this proposed bill would be a violation of the separations of power, **Rep. Dixon** replied that the governor has a great deal to do with defending the state and this is not a violation as there are times it is appropriate for the legislative branch to act. **Sen. Ward-Engleking** stated there is already money in the two established funds, and she is concerned about the oversight that protects the taxpayers and that there seems to be very little oversight for this fund.

A question was asked regarding Joint Rule 18 and the increase and decrease of revenues over a concern of whether it impacts local governments if it is the plan that the funds are to come from the General Fund. **Rep. Dixon** explained the bill did not affect anything local and there would be no problem changing the fiscal note to show that the money would be coming from the General Fund. **Sen. Woodward** asked if there had been any conversation about the Legislative Council acting as authorizing agent for expenditures. Rep. Dixon replied that there had been no discussion about that as it seemed appropriate to leave it to the two individuals.

In answer to Committee questions regarding who authorizes the expenditures from the existing accounts; the legal defense fund and the constitutional defense fund, **Rep. Dixon** stated both of those individuals authorize the expenditures. He confirmed the bill was going to create a funding line from the General Fund and would be moved into a separate fund. **Co-Chairman Bair** further explained that if those funds were not used, this committee has the authority to move those funds back into the General Fund. Committee members questioned if the two funds are already being used and if an additional fund is needed.

Rep. Troy gave an example of an incident between the federal government and Idaho when the Fish and Game Department used motorized vehicles to count elk in wilderness areas and was sued. **Rep. Dixon** agreed this was a good example and also brought up water rights where private citizens sued instead of the state on their behalf.

In answer to Committee questions regarding title 67, chapter 63 which is the constitutional defense council and is very similar and why money couldn't be added to the current fund, **Rep. Dixon** stated this bill allows the legislature to act autonomously. **Rep. Dixon** answered questions regarding line 18 of the bill, and if the authorization required concurrence or if the Speaker and Pro Tempore could authorize separately saying it is an "and" so both would be required. **Chairman Youngblood** concurred with this interpretation of concurrence needed for authorization.

Rod Beck, Chairman of the Ada County Commission, stated that only one governor has used the Constitutional Defense Fund for its intended purposes and is currently used as a legal defense fund. He reiterated that Idaho already has a fund that would serve the purpose of the proposed bill if it were to be used correctly.

MOTION: **Rep. Troy** made a motion to vote in favor of Idaho's sovereignty. **Rep. Bundy** seconded the motion.

Keith Bybee, Division Manager of LSO, presented the numbers for the two current funds: Constitutional Defense Fund had \$1,133,249.34, Legal Defense Fund had \$3,724,064.94.

Rep. Nate spoke against the motion saying there is enough funding in the two existing funds to fulfill any needs and this can be addressed again in six weeks.

VOTE ON MOTION: **Motion failed by a vote of 6 AYES, 12 NAYS, 2 ABSENT/EXCUSED.**

ADJOURN: There being no further business to come before the Committee, **Chairman Youngblood** adjourned the meeting at 2:19 p.m.

Representative Youngblood
Chair

Angela Haugh
Secretary