

MINUTES
Approved by the Committee
Committee on Federalism
Tuesday, June 07, 2022
2:30 P.M.
Room WW54
Boise, Idaho

Members in attendance: Cochair Representative Dixon and Representatives Boyle, Blanksma, and Horman; Cochair Senator Vick and Senators Johnson and Harris; and Senator Nelson via teleconference. Absent/excused: Representative Mathias and Senator Crabtree. LSO staff in attendance: Kristin Ford and Grace King.

Other attendees: Brian Kane - Idaho Attorney General's Office; Jonathan Williams - American Legislative Exchange Council (ALEC); Scott Shepard - National Center for Public Policy Research.

NOTE: Presentations and handouts provided by the presenters/speakers are posted to the Idaho Legislature's website <https://legislature.idaho.gov/sessioninfo/2022/interim> and copies of those items are on file at the Legislative Services Office in the State Capitol. Recordings of the meeting may be available under the committee's listing on the website.

OPENING REMARKS / APPROVAL OF MINUTES

Cochair Vick called the meeting to order at 2:31 p.m.; a silent roll call was requested.

Cochair Vick asked for approval of the minutes for the March 2, March 9, and March 22 meetings. **Cochair Dixon moved to approve the minutes of all three meetings; Senator Harris seconded the motion. The motion was approved unanimously by voice vote.**

Cochair Vick shared a request from AEON AI to provide a press release regarding the scope of work it would be doing for the committee per the approved contract. Per counsel from LSO staff, Cochair Vick suggested that the committee discuss the request and make a motion whether or not to approve the request.

- Rep. Blanksma asked whether the press release had been drafted for the committee members to review. Cochair Vick responded that it had not.
- Sen. Harris inquired whether AEON AI had provided talking points of the release. Kolby Reddish, Legislative Legal Counsel for LSO, explained that AEON's initial request was to receive permission to provide a release -- either from the company itself or to do a joint release with the committee -- but had not provided any guidelines or talking points.
- **Cochair Dixon moved that AEON provide draft language of the intended press release for the committee members to review the language before it is released; seconded by Sen. Johnson. The motion was approved by voice vote; Sen. Nelson recorded as voting nay.**

COMMITTEE DISCUSSION WITH GUEST SPEAKERS

At 2:38 p.m., Brian Kane, Chief Deputy Attorney General for the Idaho Attorney General's Office, provided his comments on the implementation of Idaho's [SB1405](#) (2022) and the Prudent Investor Act in general. Mr. Kane noted that SB1405 created section 67-2345 DISFAVORED STATE INVESTMENTS, which was not actually under the Prudent Investor Act as that was located in Title 68, Chapter 5 of the Idaho Code; he commented that the Legislature may want to reorganize that section into Title 68. Mr. Kane summarized that section 67-2345 required that public entities (as

defined) engaging in investment activities: 1) may offer environmental, social, and governance preferred investment alternatives but that such investments shall not be required; 2) shall provide notice of any policy related to disfavored investments; and 3) shall retain proxies of that entity.

- Cochair Dixon requested clarification that disfavored investments could be identified only by the legislature or the executive branch. Mr. Kane agreed, noting that section 67-2345 identified those items by declaring that environmental, social, or governance characteristics shall not hold more value and by defining them "as against the public policy of the state of Idaho by statute, concurrent resolution, or executive order."

At 2:45 p.m., Jonathan Williams, Chief Economist and Executive VP of Policy for the American Legislative Exchange Council (ALEC), approached the podium for his [presentation](#) on politically motivated investments.

- Sen. Johnson asked why investors would choose those investments if they provided lower returns. Mr. Williams surmised that group investors were putting their own political views ahead of best practice standards that would yield better investment returns. Sen. Johnson inquired who determined investor indexes, such as those that identified entities with ESG characteristics. Mr. Williams responded that was a good question because it was a very objective determination. Sen. Johnson noted that the forest industry had created its own identifiers and qualifiers to recognize an entity's "green" sustainability.
- Rep. Horman inquired about the status of Idaho's PERSI investments and whether there were qualifiers on its investments regarding ESG characteristics. State Treasurer Ellsworth responded that SB1405 would require PERSI to evaluate the entities in which it invested. Mr. Kane suggested that further research could be gleaned from PERSI's website and by querying its board members.
- Cochair Dixon asked what other states were doing in regards to ESG qualifiers and public pension investments. Mr. Williams noted that ALEC had created model policy that states may adopt and that Pennsylvania had passed legislation on the issue.
- Cochair Vick inquired about recommendations for Idaho. Mr. Williams suggested that hybrid systems were better for employees' choices and reducing risk by diversifying; to not allow popular public policy to influence investments; and to consider how Millennials invest and the effects of their embracing multiple employment opportunities.

At 3:13 p.m., Scott Shepard, Director of the Free Enterprise Project for the National Center for Public Policy Research, provided comments on proxy voting issues and influences on corporate boards. He cautioned allowing political views of board members to influence a company's platform.

Upon the conclusion of that presentation, Cochair Dixon commented that the committee should expect to meet later in the summer for an opportunity to discuss potential legislation.

With no further business before the committee, the meeting was adjourned at 3:32 p.m.