

MINUTES
JOINT FINANCE-APPROPRIATIONS COMMITTEE

DATE: Wednesday, March 08, 2017
TIME: 8:00 A.M.
PLACE: Room C310
MEMBERS PRESENT: Senators Co-chairman Keough, Bair, Mortimer, Martin, Souza, Lee, Agenbroad, Crabtree, Ward-Engelking, Nye
Representatives Co-chairman Bell, Youngblood, Miller, Burtenshaw, Horman, Malek, Anderson, Dixon, King, Wintrow
ABSENT/ EXCUSED: None
CONVENED: Chairman Keough convened the meeting at 8:03 A.M.

AGENCY STATE TREASURER PRESENTATION:
LSO STAFF JARED HOSKINS PRESENTATION:

CONFLICT: Pursuant to Senate Rule 39(h), Senator Agenbroad disclosed he has a possible conflict of interest under applicable law; he does plan to vote on the issue currently before the Committee.
Pursuant to House Rule 38, Representative Youngblood disclosed he has a possible conflict of interest under applicable law; he does plane to vote on the issue currently before the Committee.

CARRIED: ORIGINAL MOTION
Moved by Rep. Youngblood, the total motion is for \$1,413,600, from the General Fund and \$2,789,900, in dedicated funds, for a total of \$4,203,500, and a cap of 26.00 FTP, seconded Sen. Agenbroad

Line item 1 provides the Treasurer with a dedicated fund appropriation to purchase new software, which will support all aspects of the unclaimed property program, including the processing and management of inquiries, business reporting, receipts, claims, securities and safe deposit contents, as well as audits.

VOTE ON ORIGINAL MOTION:

AYES: 19

NAYS: 0

ABSENT/EX: 1

The majority having voted in the affirmative, the motion has passed and without objection will carry a DO PASS recommendation. There being no objection, it was so ordered by Chairman Keough.

CONSENT:

Upon request by Rep. Youngblood, granted by unanimous consent, the intent language shown below was accepted.

SECTION __ . STATE TREASURER LGIP FUND REAPPROPRIATION AUTHORITY. There is hereby reappropriated to the State Treasurer any unexpended and unencumbered balances of moneys in the State Treasurer Local Government Investment Pool Fund as appropriated for fiscal year 2017, to be used for nonrecurring expenditures, for the period of July 1, 2017, through June 30, 2018.

SECTION __ . CONFERENCE-RELATED ACTIVITIES. It is the intent of the Legislature that no more than \$10,000, from the General Fund, as appropriated in Section 1 of this act, shall be spent on various conference-related activities including, but not limited to, sponsorships, in-kind donations, and information booths. No moneys appropriated in Section 1 of this act from dedicated funds shall be used for conference-related activities unless otherwise provided by Idaho Code; provided, however, that in no event shall more than a total of \$10,000 from any fund source or combination thereof be used for said conference-related activities.

SECTION __ . PAYMENT OF BANK SERVICE FEES. Of the amount appropriated in Section 1 of this act, \$435,900, from the General Fund and \$192,400, from the Professional Services Fund or so much thereof as is necessary, is to be used solely and only for the payment of bank service fees for the period July 1, 2017, through June 30, 2018.

SECTION __ . MITIGATION OF BANK SERVICE FEES. The State Treasurer shall continue to make all reasonable efforts necessary to reduce bank service fees associated with the State Treasurer's bank accounts including, but not limited to, entering into competitive bidding for bank services. Said fees include, but are not limited to, those associated with processing warrants, merchant services, account maintenance, balance and compensation services, general account services, depository services, paper disbursement services, automated clearinghouse services, electronic data interchange payment services, wire and transfer services, file transmission, client analysis, image retrieval, account reconciliation, and other miscellaneous services. On or before September 1, 2017, the State Treasurer shall report to the Legislature regarding the specific efforts made to reduce bank service fees; the outcomes of those efforts; an estimate of the savings realized, or expected to be realized, as a result of those efforts; and a plan on how the State Treasurer will continue to make all efforts reasonable and necessary to reduce bank service fees.

AGENCY PRESENTATION: SELF-GOVERNING AGENCIES: STATE APPELLATE PUBLIC DEFENDER

LSO STAFF PRESENTATION: JARED HOSKINS

CONFLICT: Pursuant to Senate Rule 39(h), Senator Lee, disclosed she has a possible conflict of interest under applicable law; she does plan to vote on the issue currently before the Committee.

CARRIED: ORIGINAL MOTION
Moved by Sen. Agenbroad, the total motion is for \$2,889,200, from the General Fund and a cap of 23.00 FTP, seconded Rep. Youngblood,

Line item 1 provides the SAPD with funding to provide salary increases to agency staff in order to increase retention. Line item 2 provides the agency with one-time funds to address its unusually high capital caseload. Lastly, line item 3 removes the dedicated fund appropriation associated with the Idaho Criminal Justice Commission, as the chairmanship is no longer associated with the SAPD's Office, and moves the funds and appropriation to the Division of Financial Management.

VOTE ON THE ORIGINAL MOTION: AYES: 19
NAYS: 0

ABSENT/EX: 1

The majority having voted in the affirmative, the motion has passed and without objection will carry a DO PASS recommendation. There being no objection, it was so ordered by Chairman Keough.

CONSENT: Upon request by Sen. Agenbroad, granted by unanimous consent, the intent language shown below was accepted.

SECTION __. OUTSIDE COUNSEL COSTS. Of the amount appropriated in Section 1 of this act, \$207,500, from the General Fund, or so much thereof as is necessary, shall be used solely to pay outside counsel for non-capital appeals in which a conflict of interest is identified and only to the extent such costs are exclusive of, and can be identified and costs of the Office of the State Appellate Public Defender Program. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

SECTION __. CAPITAL REPRESENTATION COSTS. Of the amount appropriated in section 1 of this act, \$143,200, from the General Fund, or so much thereof as is necessary, shall be used solely for costs directly related to the provision of representation in capital cases and only to the extent such costs are exclusive of, and can be identified and accounted for separately and distinctly from, outside counsel costs of non-capital appeals and the operating, personnel, and capital outlay costs of the Office of the State Appellate Public Defender program. Such costs may include, but are not limited to, consultation with experts; travel, lodging, and per diem for expert and lay witnesses; depositions;

investigation; employee travel associated with witness interviews; court reporting and transcription services; expert witness fees; outside counsel in the event of a conflict of interest; and preparation of trial exhibits. Any remaining unexpended and unencumbered amounts not so used shall revert to the General Fund.

SECTION . CASH TRANSFER. There is hereby appropriated and the State Controller shall transfer \$24,700, from the Miscellaneous Revenue Fund within the Office of the State Appellate Public Defender, or the balance thereof, to the Miscellaneous Revenue Fund within the Division of Financial Management on July 1, 2017, or as soon thereafter as practicable, for the period July 1, 2017, through June 30, 2018.

AGENCY PRESENTATION: **DEPARTMENT OF AGRICULTURE**

LSO STAFF PRESENTATION: **RAY HOUSTON**

CARRIED: **ORIGINAL MOTION**
Moved by Rep. Burtenshaw, to the Department of Agriculture for fiscal year 2018, \$11,899,300 from the General Fund, \$25,672,200 from dedicated funds, and \$7,368,100 from federal funds for a total of \$44,939,600. FTPs are capped at 209, seconded by Sen. Bair.

DISCUSSION: This motion includes funding for nine additional positions: one purchasing agent, one IT network security analyst, one rangeland management specialist, one food safety position, two agricultural program specialists, and two investigator-technicians. It also makes one organic food inspector permanent that was appropriated as one-time last year. The motion includes \$160,000 to continue the Methyl Bromide investigation and cleanup. It also includes \$1 million, of Federal Fund appropriation, and \$3,143,300, from the General Fund for invasive species watercraft inspection stations. Line item 10 includes \$447,000, of Federal Fund appropriation, to develop the state's strategy for implementing the Food Safety Moderation Act.

The motion is a 4.5% increase in the General Fund, a 1.4% decrease in Dedicated Funds, and a 24.6% increase in Federal Funds for an overall increase of 11.2% in all funds from the current budget.

VOTE ON THE ORIGINAL MOTION: **AYES: 20**

NAYS: 0

ABSENT/EX:0

The majority having voted in the affirmative, the motion has passed and without objection will carry a DO PASS recommendation. There being no objection, it was so ordered by Chairman Keough.

AGENCY PRESENTATION: **RECONSIDERATION OF IDAHO STATE POLICE: FY 2018 APPROPRIATION RELATING TO WATERCRAFT INSPECTION STATIONS**

LSO STAFF PRESENTATION: **RAY HOUSTON**

CONSENT: On request by Rep. Burtenshaw, granted by unanimous consent, to reopen the fiscal year 2018 budget for Idaho State Police.

ORIGINAL MOTION

Moved by Rep. Burtenshaw, from the Miscellaneous Revenue Fund: \$80,000, in personnel costs, \$50,000, in operating expenditures, and \$41,300, in one-time capital outlay for a total of \$171,300. The motion includes the addition of 1 FTP, seconded Sen. Bair.

DISCUSSION: The appropriation for the Patrol Program is to be used, pursuant to contract with the Idaho State Department of Agriculture, to provide enforcement at the I-84 Cotterel watercraft inspection station.

VOTE ON THE ORIGINAL MOTION: AYES: 20
NAYS: 0

ABSENT/EX: 0

The majority having voted in the affirmative, the motion has passed and without objection will carry a DO PASS recommendation. There being no objection, it was so ordered by Chairman Keough.

AGENCY PRESENTATION: **DEPARTMENT OF AGRICULTURE**

LSO STAFF PRESENTATION: **RAY HOUSTON**

CONSENT: Upon request by Rep. Burtenshaw, granted by unanimous consent, the intent language shown below was accepted.

SECTION 3. LEGISLATIVE INTENT. It is the intent of the Legislature that the Department of Agriculture (ISDA) maximize the use of the appropriation provided for the Watercraft Inspection Program to minimize the chances of spreading zebra mussels, quagga mussels, and other aquatic invasive species into Idaho waters. The department is encouraged to use roving stations when appropriate and for expanded hours of coverage during holidays when boat transport traffic is likely to increase. It is also encouraged to use extra staffing on busy holiday weekends. The department shall gather data regarding the

number of watercraft that are bypassing the stations and to gather data regarding night-time transport of watercraft across Idaho's borders. Furthermore, it is the intent of the legislature that ISDA seek to secure Federal Funding to further enhance invasive species detection and prevention efforts. The Department of Agriculture shall report back to the Joint Finance-Appropriations Committee, the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee, during the 2018 legislative session. The results of the data gathering, securement of Federal Funds and an operational review of the boat stations.

AGENCY PRESENTATION: **OFFICE OF THE GOVERNOR: WOLF CONTROL DEPREDATION BOARD**
LSO STAFF PRESENTATION: **RAY HOUSTON**

CARRIED: ORIGINAL MOTION
Moved by Rep. Miller, to the Idaho Wolf Depredation Control Board for fiscal year 2018, \$400,000, one-time from the General Fund to be transferred to the Wolf Control Fund Other Moneys Subaccount. There are no positions for this program, seconded by Sen. Crabtree.

DISCUSSION: This money will serve as the state's match to contributions from the livestock industry and sportsmen to control wolves depredating livestock and wildlife.

SUBSTITUTE: SUBSTITUTE MOTION
Moved by Rep. King, the addition of zero funds to the Idaho Wolf Depredation Control Board for fiscal year 2018, seconded Sen. Martin

DISCUSSION: In the bank now (from 2016) is \$609,800, receipts for this year (2017)
1. General Fund \$400,000
2. plus \$95,000 from Fish and Game
3. \$110,000, from brand renewals and fees on wool
Total is \$600,000 and when added to what is in the bank now, the total is \$1.2 million. Budgeted amount to be spent per year is \$600,000, so they do not need any more money this year.

FAILED VOTE ON SUBSTITUTE MOTION: AYES: 11

NAYS: 9

ABSENT/EX:

The majority having voted in the affirmative, the motion has failed.

VOTE ON THE ORIGINAL MOTION: AYES: 18
NAYS: 2

ABSENT/EX: 0

The majority having voted in the affirmative, the motion has passed and without objection will carry a DO PASS recommendation. There being no objection, it was so ordered by Chairman Keough.

AGENCY PRESENTATION: SOIL AND WATER CONSERVATION COMMISSION

LSO STAFF PRESENTATION: RAY HOUSTON

CARRIED: ORIGINAL MOTION
Moved by Rep. Miller, to the Soil and Water Conservation Commission for fiscal year 2018: \$2,734,900, from the General Fund, \$373,500 from dedicated funds, and \$17,500 from federal funds for a total of \$3,125,900. The FTPs are capped at 17.75, seconded by Sen, Crabtree.

DISCUSSION: This motion matches the Governor's Recommendation. The motion is a 1.8% increase in the General Fund and a reduction of 1.0% in all funds from the current year.

VOTE ON THE ORIGINAL MOTION: AYES: 20

NAYS: 0

ABSENT/EX:0

The majority having voted in the affirmative, the motion has passed and without objection will carry a DO PASS recommendation. There being no objection, it was so ordered by Chairman Keough.

CONSENT: Upon request by Rep. Miller, granted by unanimous consent, the intent language shown below was accepted.

SECTION 3. LEGISLATIVE INTENT. It is the intent of the legislature that \$100,000, of the amount appropriated in section 1 of this act for trustee and benefit payments is to be distributed equally between the 50 soil and water conservation districts in addition to the amounts authorized under Section 22-2727, Idaho Code.

AGENCY DEPARTMENT OF ENVIRONMENTAL QUALITY

PRESENTATION:

LSO STAFF RAY HOUSTON

PRESENTATION:

CARRIED: ORIGINAL MOTION

Moved by Rep. Dixon, to the Department of Environmental Quality for fiscal year 2018: \$19,621,100, from the General Fund, \$11,814,500 in dedicated funds, and \$36,464,300 in federal funds for a total of \$67,899,900. FTPs are capped at 382, seconded by Sen. Ward-Engelking.

DISCUSSION:

There are two funds shifts in this budget from federal funds to the General Fund amounting to \$35,800, for benefits and \$84,900, for CEC, for a total of \$120,700. These fund shifts are recommended to cover personnel cost increases for programs supported by capped air quality and water quality grants.

The overall FTP count is increased by 10. Nine of the positions are due to the approval of fourth-year funding for the Idaho Pollutant Discharge Elimination System amounting to \$895,000, from the General Fund. I have funded the one-time costs of \$212,000, for consulting services, \$10,800, for computer equipment, \$18,000, for office furniture, and \$39,200, for specific use equipment from the Hazardous Waste Emergency Fund.

An air quality permitting staff engineer is also added. Line item 3 shifts a portion of the declining Federal Funding for the underground storage tank program to fees and makes the 1.5 positions permanent, that were funded one-time last session. The fourth line item moves appropriation from operating expenditures to personnel costs and increases the state support to meet the obligations for cleanup of the Coeur d' Alene basin contaminated by mining. The fifth line item incorporates the next 17 years as we build up the match for cleanup of the Coeur d' Alene Basin.

The sixth line item was brought to us by Representative Dayley. It was not requested by the agency or recommended by the Governor. Over the last four years, the DEQ has experienced a decline of over \$1 million in Federal 319 Funding available for grants to support agricultural best management practices. These grants are matched by farmers and ranchers to reduce sediment and phosphorous in Total Maximum Daily Load impaired streams and rivers. In 2016, the Southwest Basin Advisory Group requested \$1.3 million in grant moneys and was awarded \$141,380, or about 11% of its request. Statewide, the unfunded amount reached \$4.6 million that year. This motion would provide \$500,000, to DEQ in ongoing General Fund Moneys to be administered in the same way the Federal 319 program is handled.

The motion is a 9.6% increase in the General Fund, a 4.6% increase in Dedicated Funds, and a 4.4% decrease in Federal Funds for a total increase of 0.8% in all funds.

**VOTE ON
ORIGINAL
MOTION:**

AYES: 20

NAYS: 0

ABSENT/EX:0

The majority having voted in the affirmative, the motion has passed and without objection will carry a DO PASS recommendation. There being no objection, it was so ordered by Chairman Keough.

CONSENT:

Upon request by Rep. Dixon, granted by unanimous consent, the intent language shown below was accepted.

SECTION 3. CASH TRANSFER. There is hereby appropriated to the Department of Environmental Quality and the State Controller shall transfer \$1,500,000, from the Water Pollution Control Fund to the Environmental Remediation Basin Fund, through monthly installments or as practicable for the period July 1, 2017, through June 30, 2018.

SECTION 4. LEGISLATIVE INTENT. It is the intent of the Legislature that moneys deposited into the Environmental Remediation Basin Fund are to be used for the Environmental Protection Agency. The Department of Environmental Quality shall file an annual report each year with the Governor, the Legislature, and the Coeur d' Alene Basin Environmental Improvement Project Commission on the remediation progress and the expenditures involved.

SECTION 5. LEGISLATIVE INTENT. It is the intent of the Legislature that the appropriation of moneys from the Water Pollution Control Fund in this act specifically supersedes the provisions of Section 39–3630, Idaho Code.

CONSENT:

There was an objection to a unanimous consent request by Rep. Dixon, to include new language regarding the Agricultural Best Management Practices Program.

CARRIED:

ORIGINAL MOTION

Moved by Rep. Dixon, to accept the intent language as follows:

SECTION 6. LEGISLATIVE INTENT. It is the intent of the Legislature that \$500,000, of the ongoing General Fund moneys appropriated to the Water Quality Program for trustee and benefit payments, in Section 1 of this act, be used for a statewide grant program to support implementation of agricultural best management practices (BMPs) in high priority watersheds throughout Idaho. The Department is to administer this funding through existing BMP grant procedures and personnel. Funding is to be used by farmers and ranchers to modify their agricultural practices in order to improve water quality and help meet the objectives of Total Maximum Daily Loads (TMDLs), seconded by Sen. Bair.

SEN. BAIR: Speaks to the Original Motion. ([AUDIO](https://go.usa.gov/xXg4V))
(<https://go.usa.gov/xXg4V>)

SUBSTITUTE:

SUBSTITUTE MOTION

Moved by Sen. Ward-Engelking, to accept the intent language as follows:
SECTION 6. LEGISLATIVE INTENT. It is the intent of the Legislature that \$500,000, of the ongoing General Fund moneys appropriated to the Water Quality Program for trustee and benefit payments, in Section 1 of this act, be used for a statewide grant program to support implementation of agricultural best management practices (BMPs) in high priority watersheds throughout Idaho. The Department is to direct FY2018 funding to the Boise River Basin through existing BMP grant procedures and personnel. Funding is to be used by farmers and ranchers to modify their agricultural practices in order to improve water quality and help meet the objectives of Total Maximum Daily Loads (TMDLs), seconded by Sen. Lee.

SEN. WARD-ENGELKING: Speaks to the substitute motion. ([AUDIO](#)) (<https://go.usa.gov/xXg4V>)

SEN. LEE: Speaks to the substitute motion. ([AUDIO](#)) (<https://go.usa.gov/xXg4V>)

SEN. SOUZA: Your testimony or your debate, brought up all of the departments that should prioritize these projects, based on their needs. But your substitute motion calls out one area, the Boise River Basin, and directs the money go there. So, the original motion seems to say that the funding should be administered through grant procedures that the department has in place. Could you clarify, why your wording doesn't talk about prioritization but instead calls out one area?

SEN. WARD-ENGELKING: If you read the motion in its entirety, it does say that it is to be used for a Statewide grant program to support implementation of agricultural best management practices in high priority watersheds throughout Idaho. But then it is directing the \$500,000 to be used to the Boise River Basin to be used by farmers and ranchers in that area. But it is still based on grant procedures and personnel. It's just calling out that particular Boise River Basin is a high priority. We want the DEQ to look at it. They are well organized. They have a good plan in place. ([AUDIO](#)) (<https://go.usa.gov/xXg4V>)

**FAILED VOTE
ON SUBSTITUTE
MOTION:**

AYES: 6

NAYS: 14

ABSENT/EX: 0

The majority having not voted in the affirmative, the motion has failed.

**VOTE ON
ORIGINAL
MOTION:**

AYES: 20

NAYS: 0

ABSENT/EX: 0

The majority having voted in the affirmative, the motion has passed and without objection will carry a DO PASS recommendation. There being no objection, it was so ordered by Chairman Keough.

CONSENT: Upon request by Rep. Dixon, granted by unanimous consent, the intent language shown below was accepted.

SECTION 7. LEGISLATIVE INTENT. Notwithstanding Section 39–4417, Idaho Code, the moneys appropriated from the Hazardous Waste Emergency Fund, in Section 1 of this act, are to be used for one-time costs of developing the Idaho Pollutant Discharge Elimination System.

AGENCY PRESENTATION: **STATE TREASURER: MILLENNIUM FUND**
LSO STAFF PRESENTATION: **JARED TATRO**

QUESTIONS: SEN. NYE: Do we have a second to double check this Attorney General’s letter? It looks like it may not relate to the subject
TATRO: The purpose of this Attorney General’s opinion isn’t related to the funds for this current year. It’s for the use of the funds moving forward. And a recommendation by the Millennium Fund Committee.
SEN. KEOUGH: To be clear, this opinion that you have handed out and we get to see intent language regarding how the committee would like to move forward.
TATRO: That is correct. That is why I have passed it out for the intent language specifically. But if it would please the Committee, on page 4 of 6. I would defer to Rep. Malek or any other attorney in the room, that might be better at reading these documents in fifteen minutes, than I am. On page 4 of 6 : “Subsection 34 of SB 1418 in effect displaces the provisions of subsections 33–522(2)(a)-(c) that school boards must determine whether the conditions of these subsections have been met and declares as a matter of state law that these subsections’ conditions are met.” This letter is addressed to Senator Goedde, dated March 23, 2010, by Brian Kane, and is related to this issue. This is the opinion of the Attorney General provided to Rep. Woods stating that the legislature has the authority to set aside subsections of code. This is an example of JFAC setting aside a policy relating to when a school district can declare a financial emergency.
REP. WINTROW: Where did this opinion come from? Who requested it? and Why?
TATRO: This opinion was requested by Senator Goedde, on March 23, 2010. Regarding the ability to, as I understand it, JFAC to set aside subsection of code, as a legislature to set a side subsection of code outside the use of the funds. Though this is not the exact topic it is the same concept that was asked by the Millennium Fund Committee to do.
SEN KEOUGH: To follow-up on Rep. Wintrow’s question, upon hearing questions from this Committee, the analyst thought this might be helpful to our deliberations this morning.
SEN. MORTIMER: I believe in code it does indicate that in times of financial emergency, and I believe we have said in code, in times of financial emergency. [AUDIO](https://go.usa.gov/xXgd8) (<https://go.usa.gov/xXgd8>)

CARRIED: ORIGINAL MOTION
Moved by Rep. Malek, \$9,136,200, all from dedicated Millennium Income Funds for fiscal year 2018 and that all non-state entities receiving a grant, sign an agreement with the state, as required in the grant submission process, seconded by Sen. Martin,

AYES: 19

NAYS: 1

ABSENT/EX: 0

The majority having voted in the affirmative, the motion has passed and without objection will carry a DO PASS recommendation. There being no objection, it was so ordered by Chairman Keough.

REP. HORMAN: Speaks to the intent language. ([AUDIO](https://go.usa.gov/xXgd8))
(<https://go.usa.gov/xXgd8>)

CONSENT: Upon request by Rep. Horman, granted by unanimous consent, the intent language shown below was accepted.

PUBLIC HEALTH DISTRICTS — APPROPRIATION BILL LANGUAGE
There is hereby appropriated and, at the request of the State Treasurer, the State Controller shall transfer \$750,000, from the Idaho Millennium Income Fund to the Idaho Public Health Districts are to submit to the Joint Legislative Millennium Fund Committee and to the Joint Finance — Appropriations Committee a report that provides a detailed plan on the Millennium Income Fund tobacco cessation funding formula. This report shall include information on how the formula has changed over time, and how the formula provides equity among the districts. Further, it is the intent of the Legislature that the appropriation and use of Millennium Income Funds are not to be considered as state general aid, as outlined in Section 39–425, Idaho Code.

REQUEST TO CHANGE VOTE: SEN. NYE: When may I change my vote? I respectfully ask to change my vote from no to yes, after an explanation.
SEN. KEOUGH: The roll call has been called, and it was asked if anyone would like to change their vote. Since no member changed their vote, and the roll call was accepted, in order to change your vote at this point you would need to Move for Reconsideration.

MOTION RULED OUT OF ORDER: Sen. Nye moved for a reconsideration of changing his vote from no to yes on the original motion for the Millennium Fund.

Chairman Keough ruled the motion out of order based on the Senate Rules.

OBJECTION TO UNANIMOUS CONSENT:

There was an objection to the unanimous consent request by Rep. Malek to accept the intent language for the Millennium Income Fund — Cash Transfers.

CARRIED:

ORIGINAL MOTION

Moved by Rep. Malek, seconded by Rep. Bell, to accept the intent language as shown below:

MILLENNIUM INCOME FUND — CASH TRANSFERS

SECTION __. Notwithstanding any other provision of law to the contrary, on June 30, 2018, or as soon thereafter as is practicable, any remaining unexpended and unencumbered balance of moneys appropriated in this act shall be reverted to the Idaho Millennium Income Fund.

SECTION __. Notwithstanding any other provision of law to the contrary, on June 30, 2018, or as soon thereafter as is practicable, the State Controller, at the request of the State Treasurer, shall transfer any remaining unexpended and unencumbered balance of moneys in the Idaho Millennium Income Fund.

QUESTIONS:

REP. WINTROW: About the first intent language, when the good analyst talked about the agency reverting, so when any of these moneys we appropriated to State agencies those were be reverted but if they are for a program that's not related to a State agency, we couldn't revert that, Right?

TATRO: In the grant application guide, number 8 states that non-state entities receiving these grants, will be subject to signing an agreement with the State that guides the use and the accounting for the Millennium Fund so awarded. Within that guide it also states, in Section 10, that State agencies are required to revert any unexpended, unencumbered grant moneys at the end of the fiscal year. Per the signed agreement, all non-state entities are also required to do the same. This was put into place FY 2017.

([AUDIO](https://go.usa.gov/xXgd8)) (<https://go.usa.gov/xXgd8>)

VOTE ON THE ORIGINAL MOTION:

AYES: 20

NAYS: 0

ABSENT/EX: 0

The majority having voted in the affirmative, the motion has passed and without objection will carry a DO PASS recommendation. There being no objection, it was so ordered by Chairman Keough.

CONSENT:

REP. MALEK: Speaks to the intent language, Millennium Fund Committee — FY19 Grant Language. ([AUDIO](https://go.usa.gov/xXgd8)) (<https://go.usa.gov/xXgd8>)

CARRIED:**ORIGINAL MOTION**

Moved by Rep. Malek, seconded by Sen. Martin, to accept the intent language as shown below:

MILLENNIUM FUND COMMITTEE — FY19 GRANT LANGUAGE

Notwithstanding the provisions of Section 67–1808 (3) and (4), Idaho Code, it is the intent of the Legislature that the Joint Legislative Millennium Fund Committee will not request applications for funding from the Idaho Millennium Income Fund, or meet to hear testimony and to consider applications for funding from the Idaho Millennium Income Fund for the period July 1, 2018, through June 30, 2019,

QUESTIONS:

SEN. SOUZA: I don't understand how you are using this section of Statute 67–1808 to prove that the Millennium Fund Committee does not need to take applications or testimony. Could you clarify?

REP. MALEK: The title of the statute is powers and duties of the committee, then it states the committee shall have the following powers and duties. It puts powers and duties together without delineating which of the six items are duties and which of those six items are powers. ([AUDIO](https://go.usa.gov/xXgd8)) (<https://go.usa.gov/xXgd8>)

SEN. SOUZA: Thank you for your clarification.

SEN. WARD-ENGELKING: Being a member of that committee, it was very split. We have another attorney on the committee, who absolutely feels we have to change the statute. Because shall means shall. That was the reason we asked to get an Attorney General opinion. ([AUDIO](https://go.usa.gov/xXgd8)) (<https://go.usa.gov/xXgd8>)

SEN. MARTIN: I want to remind the members of the committee what we are voting on. The motion to me is addressing not the withstanding of the provisions. And asking Jared if this is something that we have done or something that we do as a committee?

HOLLAND-SMITH: We have quite a bit of experience with setting aside code within this committee and other legislative committees. It's come up multiple times and is a very important question. Especially in financial distress, although not limited to financial distress, it is sometimes the interest to set aside certain provisions of code in order to take or gather money from other sources that would not be typically used for this purpose. ([AUDIO](https://go.usa.gov/xXgd8)) (<https://go.usa.gov/xXgd8>)

SEN. MORTIMER: If we accept the definition that items number 3 and 4 are powers and not duties, I'm still struggling with the intent language saying that this committee is going to weigh in on whether the Millennium Fund Committee makes requests for applications for funding or not.

REP. WINTROW: We had a long and thorough conversations that have some really good ideas. There is an attorney on the panel, I have respect for. The issue here to me is that if it is contentious or any other questions, I would rather be conservative and making sure I had all the information before I move ahead. ([AUDIO](https://go.usa.gov/xXgd8)) (<https://go.usa.gov/xXgd8>)

SEN. NYE: What is your understanding or what would you advise us on the effect on the intent language. What is the legal affect or the actual affect of the language of the motion?

REP. MALEK: What the Legislature creates the Legislature can change. So, the Millennium Fund doesn't have the power to change statute. So they have made this request along with their funding request. Because what they do have the power to do is make recommendations to the Legislature on what they would like

to have done. (AUDIO) (<https://go.usa.gov/xXgd8>)

SEN. SOUZA: I just want to ask about the functionality of this action. If we approve this intent language does it mean that the Millennium Fund will not be giving out their appropriations or their grants next year?

TATRO: That is correct. They would not solicit for grants nor would they submit for grants.

REP. KING: This is only for one year. The Committee felt the majority of the applications were not as effective as we would like them to be. And we talked about different ways to evaluate them. That came down to very expensive evaluations. We didn't want to spend that kind of money. We just wanted to take a year off to see what we wanted to do with this money. Do we want to continue giving out applications and small amounts at a time, to not very effective programs, or find something that is more effective. (AUDIO) (<https://go.usa.gov/xXgd8>)

REP. BURTENSHAW: Juvenile Corrections, Office of Drug Policy, Public District Health, Idaho State Police, Department of Correction, Idaho Association of Counties and so forth, would not be able to make an application to this fund, if we remove these two items?

REP. MALEK: Some of the funds we have put through here have been ongoing funds from here on out. There would be no more grant applications. The intent would be to not here grant applications from this point forward.

SEN. MARTIN: I refer to the Committee to the first page of our packets, the bottom of the discussion points where it indicates, what the good Representative said, some of these we felt like ongoing Public Health and the Department of Health and Welfare, were important ongoing items. But the rest need to be evaluated.

REP. MALEK: What was the process that the Millennium Fund Committee went through to come up with this intent language?

SEN. MARTIN: As was indicated, it was a robust discussion in the Committee. It was not unanimous but it was a majority that wanted to go this path. I think for a couple reasons. I and others felt we needed some time to evaluate the direction of the Committee and the money involved. It's becoming a large pot of money and will continue to grow. We also felt obligation to those people requesting to give them some time so they would be able to plan accordingly. (AUDIO) (<https://go.usa.gov/xXgd8>)

SEN. KEOUGH: Was there any discussion in there taking this desire, that passed, from the Millennium Fund Committee from a policy piece to a Germane Committee?

SEN. MARTIN: We are trying to decide the policy. I felt as the policy should be coming from JFAC, not from the Millennium Fund. I believe this is a recommendation from the Millennium Fund to JFAC. But it is a majority request from that committee.

SEN. KEOUGH: Sorry, I was less than clear. For me this seems like a policy decision to change statute that governs the Millennium Fund and the Committee. Perhaps in my view, the question is was there a discussion about taking a change in statute to the State Affairs Committee?

SEN. MARTIN: No, there was not. I believe the motion here is to set aside statute notwithstanding provision of Section 67-1808 (3) and (4). To me it is to just set it aside to give us a time and they may come back then and accept that. I don't recall any discussion to actually change cause I don't believe that is necessary at this time.

REP. WINTROW: Maybe I would feel a little more confident about the process

ongoing if there was additional language in the legislative intent to demonstrate or direct to the Millennium Fund Committee then view and evaluate how this is going to go in the future. Again as I had indicated, even though the majority ruled contentious and there is enough questions in this Committee, that I think that we probably need some advice from our Attorney General.

SEN. WARD-ENGELKING: We were pressed for time. There were people leaving to go to lunch and committee. But there was discussion about this needing policy change, that we needed to change the policy. And what the Chairman said was “Let me find out from the Attorney General.” Because he believe we could possibly do it through JFAC with notwithstanding language. [\(AUDIO\) \(https://go.usa.gov/xXgd8\)](https://go.usa.gov/xXgd8)

SEN. BAIR: At its fundamental foundation, this discussion revolves around whether this Committee has the authority to set policy or not. In my opinion, that authority lies in the germane committees. When we use notwithstanding language, it should be used sparingly, judiciously, and not to set policy. This really needs to come before the State Affairs Committee.

REP. MALEK: Just from a process stand point, Section 67–1808 does lay out a policy process, for the Millennium Fund to make recommendations to the Legislature. What I am hearing from the members of the Committee, they are not sure what policy recommendations they would like to make to take to a Germane Committee. What they are asking to make is to take a break in time so they can continue to move forward with the duties they have in the Statute.

SEN. MARTIN: I don't believe that the Millennium Fund at this time is necessarily requesting to completely change. I believe they are just requesting to give them a year to decide what to do. [\(AUIDO\) \(https://go.usa.gov/xXgd8\)](https://go.usa.gov/xXgd8)

**FAILED VOTE
ON THE
ORIGINAL
MOTION:**

AYES: 9

NAYS: 11

ABSENT/EX:

The majority having not voted in the affirmative, the motion has failed.

ADJOURNED:

There being no further business, Chairman Keough adjourned the meeting at 9:49 A.M.

Senator Keough
Chair

Amberlee Honsaker
Secretary