

MINUTES
JOINT FINANCE-APPROPRIATIONS COMMITTEE

DATE: Thursday, January 11, 2018
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: Senator Keough called the meeting to order at 8:01 A.M.

AGENCY PRESENTATION: **SPECIAL HEARING: PUBLIC EDUCATION STABILIZATION FUND**

PRESENTER **Robyn Lockett, Principal Analyst:** The Public Education Stabilization Fund, also known as PESF, this is one of about six stabilization funds in the state. You also know these accounts as “Rainy Day Funds” or savings accounts. Last session you passed a bill, and the Governor approved a bill that impacted PESF. Senate Bill 1041 added a Section, Section §33–1018C, this new section of code requires this Committee to consider a transfer into PESF in the same amount as the current year withdrawal from PESF. This section of code does not require this Committee to take any action, but simply says that you can consider a transfer into the Fund as a supplemental appropriation in the current fiscal year. Further reviewed the history of the Public Education Stabilization Fund. (Please see presentation for further information) (Audio)

In response to committee questions, **MS. LOCKETT** stated there was no action necessary for this fund at this time and that there is no steady stream of income to this fund. **MS. LOCKETT** also reviews the PESF Fund and anything over \$140 million or 8.334% gets transferred to the Equalization Fund and the last time a transfer was made was FY 2017 of \$2.3 million.

DEFICIENCY WARRANTS / SUPPLEMENTALS

AGENCY PRESENTATION: **DEPARTMENT OF AGRICULTURE: PEST CONTROL**

PRESENTER: **ROB SEPICH:** Funding is requested to reimburse actual expenditures incurred in FY 2017 for exotic or invasive species monitoring and control including potato cyst nematode, Japanese Beetle, and other exotic pests. The existence of exotic or invasive pests in the state, and the lack of information about the distribution of those pests, can cause economic losses to the public by the direct effects of the pests and the placement of quarantines and import restrictions by other states and countries. These programs are carried out under the deficiency warrant authority provided in Chapters 19 and 20, Title 22, Idaho Code. Grasshopper and Mormon Cricket control continue to be covered by a federal grant that is expected to cover an additional two years at current use. By comparison, FY 2017 costs included \$22,300 for exotic pest monitoring and \$187,400 for Japanese Beetle treatment. FY 2016 costs totaled \$342,600.

UNANIMOUS CONSENT On request of Senator Bair, granted by unanimous consent, the FY 2017 budget for Department of Agriculture, was reopened.

CARRIED: Original Motion
Moved by Sen. Bair, for fiscal year 2018, for the Department of Agriculture in the Plant Industries Program, an additional \$111,700 in onetime operating expenditures and \$98,100 in capital outlay, for a total of \$209,800 from the General Fund, seconded by Rep. Burtenshaw.

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 Senator Keough.

AGENCY PRESENTATION:

AGRICULTURAL INSPECTIONS

PRESENTERS

ROB SEPICH: The department requested 2.00 FTP and \$209,900 from the Agricultural Fees — Organic Food Products Fund to hire two additional organic inspectors. Since 2014, the organic program has seen a 40% increase in the number of certified organic producers, especially small, artisan commodities. The average turnaround time for certification in 2016 was 4.2 months, which is difficult for producers who have annual certification requirements for current year crop sales. Program revenue continues to increase due to fees being tied to the previous year's gross organic sales for each farm. There are currently three full-time inspectors and two contract inspectors in the FY 2018 Base; however, existing staff are unable to keep up with the increased demand from industry. Since 2015, four employees have left the program in a combination of burnout and positions taken in other programs outside of the department. This request would add one inspector to the Boise area and one to the Pocatello area. There are currently no other public or private entities in the state that can legally grant an organic certification. If this request were to not be funded, the department would likely scale back services and producers would be forced to purchase certification services through private for-profit certifiers located out of state.

The staff anticipates being able to complete all inspections; however, final reviews and technical inquiries such as label approvals and material reviews may be delayed.

In response to committee questions, **MR. SEPICH** stated that the funds are dedicated for the organic producers and based on previous years' yields and it is not a general inspection fund.

CARRIED:

Moved by Rep. Miller, for fiscal year 2018, for the Department of Agriculture in the Agricultural Inspections Program, an additional 2.00 FTP, \$139,400 for personnel costs, \$10,300 for operating expenditures, and \$60,200 onetime for a total of \$209,900, seconded by Sen Bair.

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.

In response to committee questions, **MR. SEPICH** stated he is working with the Department of Lands to reconcile the various agencies and will get back to the committee by the end of the week with a report on funds for fire suppression.

**AGENCY
PRESENTATION:**

SOIL & WATER CONSERVATION COMMISSION

**LSO STAFF
PRESENTER:**

ROB SEPICH: The agency requested a onetime FY 2018 supplemental appropriation of 1.00 FTP and \$25,000 in personnel costs for grants from the National Fish and Wildlife Foundation (NFWF) to hire a temporary sagebrush landscape restoration specialist. This funding would finish FY 2018 projects, while a requested line item would expand this effort for FY 2019. The Governor did not recommend 1.00 FTP for FY 2018 as this FTP would be available through a separate noncognizable grant that was approved for 4.00 FTP yet only the resources to fill 3.00 FTP. This specialist would collaborate with the Idaho Sage Grouse Action Team, university staff, the Office of Species Conservation, and local stakeholders to raise awareness of the National Resources Conservation Service (NRCS) Agricultural Conservation Easement, the Agricultural Land Easement, and the Wetland Restoration Easement programs. The agency states this request would help conserve important habitat for the sage grouse with the intent to preclude the need for a federal endangered species listing of the species.

CONSENT:

On request by Rep. Miller, granted by unanimous consent, the FY 2018 budget for the Soil and Water Conservation Commission, was reopened.

CARRIED: Original Motion
Moved by Rep. Miller, for fiscal year 2018, for the Soil and Water Conservation Commission, an additional \$25,000 for personnel costs, seconded by Sen. Crabtree
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.

QUESTIONS SEN. BAIR: Committee, I hope you will let me indulge here for just a moment, I would like to request that this particular supplemental just be delayed, just for a day or two. There were some of us that worked on this for quite awhile yesterday and it is probably because I am not that smart. I was not able to get my arms around it, and I just would need another day or two to just work through the numbers. It would be very helpful if the department would get a hold of the analyst and spend some time reviewing this and I believe he understands our concerns and questions. Maybe they can work to get that taken care of.

SEN. KEOUGH: Just to make sure that we understand the request for the delay for right now, this is on the first supplemental, which has to do with back filling of fiscal year 2017 held payments. Is that correct Senator?

SEN. BAIR: Thank you for the clarification, yes, that is correct, thank you.

SEN. KEOUGH: That is a Request for Delay and I do not see any objection to that Request for Delay for a few days. So, I think we are good. I appreciate those who are working on this and appreciate more information from the Department

AGENCY PRESENTATION: **DEPARTMENT OF HEALTH AND WELFARE: KW LAWSUIT COMPLIANCE**

LSO STAFF PRESENTER: **JARED TATRO:** The department requests \$311,500 in onetime operating expenditures to comply with requirements of the KW v Armstrong lawsuit settlement. The request is two-fold: first, the request includes \$213,500 to cover the cost of hiring an independent consultant to develop a new budget methodology. The department has selected Human Services Research Institute (HSRI) to develop, test and assist in implementation of the new methodology. The settlement agreement was reached in December 2016. Second, the request includes \$98,000 to implement training to provide due process for adult Medicaid participants with developmental disabilities who contest the department's decision at hearing. The training is to ensure participants in the adult developmental disability

CONSENT: On request of Rep. Wintrow, granted by unanimous consent, the fiscal year 2018 budget for the Department of Health and Welfare, was reopened.

CARRIED: Original Motion

Moved by Rep. Wintrow, to the Department of Health and Welfare for the Medicaid Administration and Medical Management Program an additional \$155,800 from the Cooperative Welfare (General) Fund in onetime operating expenditures and an additional \$155,700 from the Cooperative Welfare (Federal) Fund in onetime operating expenditures, for a total motion of \$311,500, for fiscal year 2018, seconded by Rep. King

AYES: 20

NAY: 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:**

MENTAL HEALTH: JEFF D SETTLEMENT

**LSO STAFF
PRESENTER:**

JARED TATRO: The Department requests \$644,600 in ongoing operating expenditures to meet the requirements of the Jeff D. settlement agreement. This supplemental appropriation would be in addition to the \$500,000 that was appropriated in the 2018 original appropriation, and for the exact same purpose. The department estimated the cost for the FY 2018 request too low, and this request is to make the amount whole. The Jeff D. settlement agreement requires the department to implement a variety of services and provide for an effective mental health system of care for adolescents. To meet the terms of the agreement, the department plans to procure new software for data analysis and to contract with various entities: Praed/Chapin Hall for the Child and Adolescent Needs and Strengths (CANS) training; Idaho State University for the development of the practice manual; Portland State University for the wraparound training; Boise State University for workforce development and comprehensive prevalence analysis; A family run organization for family involvement and coordination; and marketing and media consultation.

MOTION: Original Motion

Moved by Sen. Lee to the Department of Health and Welfare for the Children's Mental Health Program an additional \$322,300 in ongoing operating expenditures from the Cooperative Welfare (General) Fund and an additional \$322,300 in ongoing operating expenditures from the Cooperative Welfare (Federal) Fund for a program total of \$644,600, for fiscal year 2018, seconded by Rep. Malek.

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 CORRECTIONS: MANAGEMENT SERVICES

**LSO STAFF
PRESENTER:**

JARED HOSKINS: This supplemental request is for \$242,100 in onetime operating expenditures from the General Fund to pay various court-ordered fees associated with the Walter D. Balla et al. v. Idaho State Board of Correction (Balla) court case. Pursuant to a Stipulated Motion to Modify Injunctive Relief, dated May 15, 2012, the department is required to pay the National Commission on Correctional Healthcare (NCCHC) to conduct a final compliance audit to determine whether the department has complied with the applicable modified compliance plans in the Balla lawsuit. There was a final follow-up audit in September of 2017, which cost \$36,400. Also, the department is required to pay the plaintiffs' attorney fees associated with the ongoing monitoring of the lawsuit. The department was billed \$205,700 for the plaintiffs' attorney fees that accrued from April 1, 2016 through January 1, 2017.

By the time the Governor made his FY 2019 budget recommendation, the department had since become aware of an additional \$248,900 in plaintiffs' attorney fees related to additional billings from February of 2017 through August 2017; and fees associated with the Plaintiffs' successful contempt motion.

CONSENT:

On request by Rep. Youngblood, granted by unanimous consent, to reopen the fiscal year 2018 budget for the Department of Correction.

CARRIED:

Original Motion

Moved by Rep. Youngblood, , for fiscal year 2018, for the Department of Correction, in the Management Services Program, an additional \$491,000 in onetime operating expenditures from the General Fund, seconded by Sen. Agenbroad.

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 CORRECTION: MANAGEMENT SERVICES:
ATTORNEY FEE FOR BARTLETT**

**LSO STAFF
PRESENTER:**

JARED HOSKINS: The department requests \$38,500 in onetime operating expenditures from the General Fund to pay the plaintiffs' attorneys fees in the Bill Bartlett et al v. Henry Atencio et al. (Bartlett) court case. On May 3, 2017, the plaintiffs filed a complaint alleging in relevant part that, by failing to accommodate the plaintiffs religious dietary needs related to kosher meals, the department violated their rights under the Free Exercise Clause of the First Amendment, as incorporated against the state of Idaho under the Fourteenth Amendment. On August 11, 2017, the parties stipulated to an Order of Partial Dismissal with Retained Jurisdiction, which provided that the relevant claims for relief would be dismissed pursuant to a settlement agreement. The stipulation further provided that the issue of costs and attorney fees related to the relevant claims for relief would be resolved by separate agreement or by the court. On September 18, 2017, the department offered to settle the issue of costs and attorney fees related to the relevant claims for relief. On October 3, 2017, the plaintiffs filed an Acceptance of Offer of Judgement, and on October 4, 2017, the court entered a judgement requiring the department to pay \$93,000 for costs and attorney fees. Of this amount, \$54,500 will be paid by Risk Management within the Department of Administration, leaving \$38,500 to be paid by the department.

CARRIED:

Moved by Sen. Agenbroad, for the fiscal year 2018, for the Department of Correction, in the Management Services Program, an additional \$38,500 in onetime operating expenditures from the General Fund, seconded by Rep. Youngblood.

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:**

INDUSTRIAL COMMISSION: CRIME VICTIMS COMPENSATION

**LSO STAFF
PERSONATOR:**

MAGGIE SMITH: This supplemental request is for \$400,00 in ongoing trustee and benefit payments from the Federal Grant Fund to pay for increased costs of forensic interviews for crime victims. Forensic interviews are a standard procedure for child victims of sexual abuse. The interviews are conducted in addition to a medical examination. A forensic interview is a question and answer session between a child and a certified individual for the purpose of gathering information about an abusive event. Previously, Medicaid covered both the interview and the examination. However, as of September 2015, Medicaid no longer covers the cost of forensic interviews because they are no longer deemed medical procedures, but instead are considered an evidence gathering process for law enforcement. Section 72-1019, Idaho Code, requires that the Crime Victims Compensation Program pay for these activities if they are not paid by another source. In April 2017, Children at Risk Evaluation

Services (CARES), the largest provider of forensic interview services in the state, changed its billing process to comply with Medicaid's policy and bill for the interview and examination separately. Since CARES implemented this billing change at the beginning of FY 2018, the Crime Victims Compensation Program is expecting to see an increase in costs for forensic interviews this fiscal year and is requesting a supplemental appropriation to meet these costs. CARES estimated it would see 1,125 children for sexual abuse examinations and interviews in 2017. It is estimated that nearly 70% of its patients either have no insurance or utilize Medicaid, resulting in the Crime Victims Compensation Program being statutorily responsible for their forensic interview costs. If private insurance does not bear the costs of the remaining 30%, the obligation will be shifted to the Crime Victims Comp. Program as the payer of last resort. The interviews are \$244 per evaluation, meaning the annual amount that may be billed to the Crime Victims Compensation Program is estimated to range from \$192,200 to \$274,500. Additionally, part of the forensic interview process that was previously billed as a medical cost is now billed as an interview cost and thus not covered by Medicaid. The annual cost of this part of the procedure is estimated to range from \$154,400 to \$220,500. In total, estimates show there may be an annual impact ranging from \$346,500 (for Medicaid or uninsured patients only) to \$495,000 (for 100% of the interview costs). Therefore, the commission requests a FY 2018 supplemental appropriation of \$400,000, from its federal grant for ongoing trustee and benefit payments.

In response to committee questions, **MS. SMITH** stated this appropriation would be an ongoing increase of \$400,00 to make a total of \$1.2 million for the fund and will get back with the committee about whether it was a state or federal Medicaid decision to stop funding.

**UNANIMOUS
REQUEST**

On request of Senator Mortimer, granted by unanimous consent, to hold the Crime Victims Supplemental until we get the answer to the question of whether this is a Federal Medicaid decision or a State Medicaid decision until Monday, January 15.

**AGENCY
PRESENTATION:**

INDUSTRIAL COMMISSION: RETIREMENT VACATION PAYOUT

**LSO STAFF
PRESENTER:**

SMITH: The Industrial Commission requests approval of a onetime object transfer of \$16,900 from operating expenditures to personnel costs from the Industrial Administration Fund to pay accrued, unused vacation benefits for a commissioner who has announced his intention to retire in FY 2018. The vacation payout cost will be \$14,000 in salary and \$2,900 in variable benefits for a total cost of \$16,900. If approved, this transfer will be reversed before calculating the FY 2019 Base.

CONSENT

On request by Rep. Wintrow, granted by unanimous consent, to reopen the fiscal year 2018 budget for the Industrial Commission, was reopened.

CARRIED:

Original Motion

Moved by Rep. Wintrow, for fiscal year 2018, for the Industrial Commission, in the Adjudication Program, an additional \$16,900 in personnel costs, and a reduction of \$16,900 in operating expenditures, from the Industrial Administration Fund, to be restored in fiscal year 2019, seconded by Senator Ward-Engelking.

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:**

SELF-GOVERNING AGENCIES: MEDICAL BOARDS

**LSO STAFF
PRESENTER:**

SMITH: The Board of Pharmacy requests \$37,300 in onetime operating expenditures from the State Regulatory Fund to complete the requirements of its Prescription Drug Overdose Prevention contract with the Department of Health and Welfare (DHW) for the FY 2018 contract period. DHW has a federal grant from which it contracts \$120,000 per year to the Board of Pharmacy to implement the Prescription Drug Overdose Prevention Program. Under this contract, the agency performs outreach to pharmacies throughout the state to facilitate adoption of two tools, Prescription Monitoring Program (PMP) Gateway and NarxCare, which provides streamlined access to PMP data to prescribers and dispensers of pharmaceuticals. According to the agency, these tools enhance the Board of Pharmacy's existing Prescription Monitoring Program, and improve decision-making for providers around controlled substance use.

DHW's \$120,000 contract with the Board of Pharmacy for this program began during FY 2017 and spans into FY 2018. The Board of Pharmacy received a supplemental appropriation of \$60,000 FY 2017 in order to begin implementation of the program under the contract, while planning to complete the year one contract objectives with an additional \$60,000 appropriation at the beginning of FY 2018, for a total of \$120,000. In accordance with this plan, the agency received a onetime appropriation of \$180,000 for FY 2018: \$60,000 of which would be for completing the year one contract with DHW from FY 2017, and \$120,000 of which would be for year two of the contract in FY 2018. However, the \$60,000 supplemental appropriation was not expanded in FY 2017 and was reverted due to the length of time it took for participating health systems to execute a contract with Appriss Health, the third-party vendor that implements the software for pharmacies that participate in the Prescription Drug Overdose Prevention Program. At the beginning of FY 2018, the vendor contract with Appriss Health was executed and the agency spent \$97,300 for software implementation from its FY 2018 budget. Since last year's \$60,000 supplemental appropriation was reverted at the end of FY 2017, and only \$60,000 was included in the FY 2018 appropriation to cover costs from year one of the contract, the agency is requesting a supplemental appropriation of

\$37,300 to make up the difference for the \$97,300 that was actually expended. The FY 2018 contract between DHW and the Board of Pharmacy spans from September 1, 2017 — August 31, 2018 and will fully expend the \$120,000 appropriated for year two of the program. Since the full \$120,000 has been committed for year two costs, none can be reallocated to cover the \$37,300 expended for year one of the contract that exceeded the FY 2018 appropriation.

CONSENT: On request by Rep. Wintrow, granted by unanimous consent, to reopen the fiscal year 2018 budget for the Board of Pharmacy in the Division of Medical Boards, was reopened.

CARRIED: Original Motion
Moved by Rep. Wintrow, for fiscal year 2018, for the Board of Pharmacy, in the Division of Medical Boards, an additional \$37,300 in onetime operating expenditures from the State Regulatory Fund, seconded by Sen. Souza.

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:**

SELF-GOVERNING AGENCIES: REGULATORY BOARDS

**LSO STAFF
PRESENTATION:**

CHRISTINE OTTO: The Governor recommends a onetime appropriation of \$30,000 in operating expenditures from the State Regulatory Fund for case hearing and litigation costs for the Board of Professional Engineers and Land Surveyors. The board had a contested case appealed to the Idaho Supreme Court and a contested disciplinary hearing last October that was more expensive than anticipated.

CONSENT: On request of Sen. Mortimer, granted by unanimous consent, the fiscal year 2018 budget for the Regulatory Boards, Board of Professional Engineers and Land Surveyors, was reopened.

CARRIED: Original Motion
Moved by Sen. Mortimer, for fiscal year 2018, for the Regulatory Boards, in the Board of Professional Engineers and Land Surveyor's Program, an additional \$30,000 in onetime operating expenditures from the State Regulatory Fund, seconded by Rep. King.

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: PEST CONTROL

**LSO STAFF
PRESENTER:**

ROB SEPICH: We had an error and so we have two different motions, one to reverse and one to correct it. We had improperly appropriated to operating and capital outlay rather than personnel and operating.

Funding is requested to reimburse actual expenditures incurred in FY 2017 for exotic or invasive species monitoring and control including potato cyst nematode, Japanese Beetle, and other exotic pests. The existence of exotic or invasive pests in the state, and the lack of information about the distribution of those pests can cause economic losses to the public by the direct effects of the pests and the placement of quarantines and import restrictions by other states and counties. These programs are carried out under the deficiency warrant authority provided in Chapters 19 and 20, Title 22 Idaho Code. Grasshopper and Mormon Cricket control continue to be covered by a federal grant that is expected to cover an additional two years at current use. By comparison, FY 2017 costs included \$22,300 for exotic pest monitoring and \$187,400 for Japanese Beetle treatment. FY 2016 costs totaled \$342,600.

CARRIED:

Original Motion

Moved by Sen. Bair, for fiscal year 2018, for the Department of Agriculture in the Plant Industries Program, a reduction \$111,700 in onetime operating expenditures and a reduction of \$98,100 in onetime capital outlay, for a total reduction of \$209,800 from the General Fund, seconded Rep. Burtenshaw

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.

CARRIED:

Original Motion

Moved by Sen. Bair, for fiscal year 2018, for the Department of Agriculture in the Plant Industries Program, \$111,700 in onetime personnel costs and \$98,100 in one-time operating expenditures for a total of \$209,800 from the General Fund, seconded by Rep. Burtenshaw.

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.

ADJOURNED: There being no further business, Chairman Keough adjourned the meeting at 9:19 A.M

Senator Keough
Chair

Amberlee Honsaker
Secretary