

MINUTES  
**JOINT FINANCE-APPROPRIATIONS COMMITTEE**

**DATE:** Friday, February 09, 2024  
**TIME:** 8:00 A.M.  
**PLACE:** Room C310  
**MEMBERS PRESENT:** Senators Co-Chairman Grow, Bjerke, Burtenshaw, Lent, Cook, VanOrden, Adams, Herndon, Ward-Engelking, Just  
Representatives Co-Chair Horman, Miller, Bundy, Raybould, Furniss, Handy, Lambert, Petzke, Tanner, Green  
**ABSENT/ EXCUSED:** None

**Co-Chair Horman** called the meeting to order at 8:00 a.m.

**Sen. Burtenshaw** and **Rep. Vander Woude**, Co-Chairs of the Millennium Fund Committee, reported its recommendations to JFAC. Sen. Burtenshaw reminded JFAC the purpose and mission of the Millennium Fund Committee is to focus on prevention, cessation, and treatment of substance abuse, and its primary focus is Idaho youth.

The Millennium Fund made six recommendations:

1. To continue providing ongoing financial support for the existing Idaho Millennium Income Fund programs with \$9,042,500, and to move the funding for the Community-Based Recovery Centers and Public Health Districts from the State Treasurer to the Department of Health and Welfare;
2. To provide \$3,977,300 in new funding for existing programs in the Department of Health and Welfare, Public Health Districts, Idaho Public Television, Idaho Drug-Free Youth, and to retain a minimum of \$2M on the bottom line;
3. That funds for Idaho State Police be appropriated from the Opioid Settlement Fund for Idaho State Police (ISP), and not the Idaho Millennium Income Fund, for continued educational programs offered by ISP;
4. That JFAC approve and incorporate 10 sections of language in the respective appropriation bills for the entities that receive these funds;
5. That JFAC only consider using Millennium Income Funds for Medicaid claims payments on a last-resort basis, and if funds must be used, that FY 2025 be the final year; and
6. That any moneys remaining in the Millennium Income Fund be retained in that Fund.

**Sen. Burtenshaw** emphasized the Millennium Fund Committee wishes to redirect the funds to specific purposes. He referenced standard intent language the Committee proposes to add to appropriation of its funds. The Committee intends to track the appropriations to ensure the desired outcomes. It is the desire of the Committee to not use the funds for Medicaid, and any additional funds over and above what is spent on youth should revert back to the Millennium Fund.

**Rep. Vander Woude** reiterated the Committee's effort to redirect the funding. He also explained the recommendation to give reappropriation spending authority to the State Department of Education. He specified any reversions from Medicaid should return to the Millennium Fund, not the General Fund. He advised JFAC to give careful attention to the proposed standard intent language.

In response to committee questions, **Rep. Vander Woude** affirmed standard intent language for vaping prevention is included in all the programs. A possible pilot program may involve installing vaping detectors in certain areas at schools. He referenced discussions with the State Department of Education to ensure Millennium Fund dollars will be spent for the purposes intended by the Millennium Fund Committee.

In response to another committee question, **Rep. Vander Woude** stated the Millennium Fund Committee is requesting \$900K from the Opioid Settlement Fund go to the Idaho State Police.

**Co-Chair Horman** recognized the Governor has different recommendations for Millennium Fund dollars.

**Mr. Tim Hibbard**, Senior Analyst, LSO Budget & Policy, gave an overview of the State Appellate Public Defender. He explained the State Appellate Public Defender provides legal representation to indigent persons for capital cases and cases in the Court of Appeals.

**Mr. Hibbard** reviewed the past five years of estimated and actual expenditures of the agency. He pointed out in FY 2023 the State Appellate Public Defender was given a large appropriation to deal with specific court cases. The agency was not able to expend those appropriated funds in the fiscal year because of trial delays; the agency is requesting reappropriation authority.

**Mr. Hibbard** reviewed the FY 2023 and FY 2024 budget enhancements. He reminded the committee of the FY 2021 2% reduction across all state agencies. He explained the FY 2025 budget request for the appellate courts will restore the agency to pre-pandemic levels.

**Mr. Erik Lehtinen**, State Appellate Public Defender, answered committee questions about the FY 2024 salary increases. He stated the increases were helpful with retention, but it is still difficult to recruit new staff with current funding. He expressed appreciation for the funding for the upcoming capital trials.

**Mr. Hibbard** gave an overview of the Public Defense Commission (PDC) and the Office of the State Public Defender. PDC is charged with promulgating administrative rules regarding public defender training and continuing legal education and data reporting requirements for contracts between counties and private attorneys. It also provides indigent defense grants to counties to provide public defense at the county level.

**Mr. Hibbard** pointed out the Office of the State Public Defender is a new state agency this year. This new Office will replace the Public Defense Commission as of July 1, 2024.

**Mr. Hibbard** gave a high-level review of the past five years of estimated and actual expenditures of PDC. He pointed out the FY 2024 extra funding as the Commission temporarily housed the new Office of the State Public Defender.

**Mr. Hibbard** described the FY 2023 and FY 2024 budget enhancements. He explained the FY 2025 budget request, which moves operations to the Office of the State Public Defender. He gave a high-level review of the Governor's differing recommendations for the agency.

**Mr. Hibbard** compared the budgets of the Public Defense Commission and the State Public Defense Commission General Fund to demonstrate the transfer of funds to the Office of the State Public Defender.

In response to a committee question, **Mr. Hibbard** confirmed the Office's request for 299 FTP. These are current county-level defense attorneys being recruited to become state attorneys with the Office of the Public Defender.

**Ms. Kathleen Elliott**, Executive Director of the Public Defense Commission, assured the committee of a smooth transition to the Office of the State Public Defender. She expressed appreciation to JFAC and its support in creating this state public defense program.

**Mr. Eric Fredericksen**, State Public Defender, answered committee questions. He confirmed litigation prompted the Legislature to create the agency. *Tucker v. Public Defense Commission* is the ongoing lawsuit filed in 2015 challenging Idaho's public defense system as being constitutionally inadequate. This case was recently dismissed, based on the development and progress of the new agency. The case is still open and can be refiled. He confirmed the purpose of the new centralized state agency is to create a more uniform level of quality for public defense across the state.

In response to a committee question about the transition to state attorneys, **Mr. Fredericksen** said county attorneys' main concerns are compensation and benefits. The county attorneys want to ensure they are compensated for the experience they bring and not classified as first-year employees.

**Mr. Hibbard** gave an overview of the Office of Administrative Hearings (OAH). This is a relatively new office, created by **H 629** in 2022; there is only one year of data to review. Mr. Hibbard reviewed the FY 2023 and FY 2024 enhancement requests. The office was started in FY 2023 with partial funding and the remaining funding was approved for FY 2024.

**Mr. Hibbard** explained the FY 2025 request for personnel transfer from the Office of the Attorney General (OAG). Hearings currently held in OAG will be moved to OAH. He explained the difference between the Governor's recommendation and the Attorney General's requests.

**Mr. Bryan Nickels**, Chief Administrative Hearing Officer of OAH, answered committee questions. He described the rapidly increasing workload for the agency. On July 1, 2024, OAH will begin hearing contested claims formerly administered by the Department of Health and Welfare (DHW). The OAH caseload will jump from 142 cases/year to 1400+ cases/year.

In response to committee questions, **Mr. Nickels** gave a general description of the former administrative hearing process, which varied agency by agency. OAH was created because the Legislature had concerns about the subject of the complaint having administrative oversight of the appeals process. The Legislature recognized the need for an independent agency. Mr. Nickels explained 60% of petitioners are self-represented litigants; standardizing and simplifying the procedure and process makes for greater transparency.

In response to further questions, **Mr. Nickels** stated OAH handles internal conflicts within agencies, conflicts between private citizens and state agencies, and conflicts between state entities. He described the administrative appeal process.

**Mr. Hibbard** gave an overview of the Office of the Attorney General (OAG). OAG has three budgeted programs: State Legal Services, Internet Crimes Against Children (ICAC), and Special Litigation.

**Mr. Hibbard** reviewed the sources and purposes of the dedicated funds associated with the Attorney General's Office. He pointed out any dollars in excess of 150% of the agency's annual appropriation in the Consumer Protection Fund is transferred back to the General Fund. He reviewed the past five years of estimated and actual expenditures.

**Mr. Hibbard** described the FY 2023 and FY 2024 budget enhancements. He explained the FY 2025 budget requests, including transferring personnel to OAH and requests for additional staff. He described the difference between the Governor's recommendation and the AG's requests.

**Mr. Hibbard** also explained the FY 2024 supplemental request related to the Tucker v. Public Defense Commission litigation expenses.

**Mr. Raúl Labrador**, Attorney General, answered committee questions. He explained the request for two energy and natural resources Deputy Attorneys General (DAG). He referenced ongoing and pending litigation regarding the Endangered Species Act, Columbia River System Operations, salmon litigation, Waters of the United States litigation, and others. AG Labrador also referenced recent ARPA funding for the Idaho Transportation Department (ITD). Additional DAGs would assist ITD with litigation relating to highway expansion projects and roadway acquisitions.

In response to a committee question, **AG Labrador** confirmed the Fair Hearings Unit formerly housed within the AG's office has been completely transferred to OAH.

In response to committee questions, **AG Labrador** stated his office does the litigation work for all state agencies, unless a state agency has specific statutory authority to hire outside attorneys. He stated the agency has 7 vacant FTP. He commented all AGs occasionally must outsource to Special Deputy Attorneys General, but he would prefer to keep the work in-house, hence the request for additional FTP. In response to an additional committee question, AG Labrador said 95% of DAGs are Idaho attorneys.

In response to a committee question, **Mr. Phil Skinner**, Chief of Staff to the AG, commented on the Idaho Power v. Idaho State Tax Commission litigation. There are discussions between the Idaho State Tax Commission and county tax assessors to determine the process of potential refunds paid to Idaho Power.

In response to a committee question about the budget request for mobile phones, **AG Labrador** explained the phones are necessary for investigators in the Internet Crimes Against Children (ICAC) Unit. He further explained changes in case management and the FY 2024 appropriation for additional analysts and investigators had been instrumental in reducing the ICAC backlog to 0%.

In response to a committee comment about the FY 2024 supplemental request for onetime dollars for the Special Litigation Fund, **AG Labrador** pointed out the dismissal of the Tucker v. Public Defense Commission will save the state money; however, OAG incurred \$435K in pre-trial costs.

The General Fund update was postponed until Monday because of time constraints.

**ADJOURN:** There being no further business to come before the committee, the meeting adjourned at 9:39 a.m.

---

Representative Horman  
Chair

---

Alyson Jackson  
Secretary