



Week 10 Idaho Legislative Update for March 15-19, 2021

The tenth week of the First Regular Session of the Sixty-Sixth Idaho Legislature was fueled by a fervent push to move toward "Sine Die" but ended abruptly Friday as word of several House Members contracting COVID 19 spread. This resulted in the House and Senate pausing for 18 days. The Idaho Legislature is now in recess until April 6, 2021.

Prior to recessing this week, both chambers were meeting on the floor morning and afternoon with committee hearings interspersed. Debates were lengthy. The Senate Calendar has 78 items remaining, with more to be added. The House Calendars have 68 items to be dealt with in addition to those bills still moving through committees. With over 150 bills still working through the process on the floor and in committee, the session seems far from over.

This week we saw the introduction of another new transportation idea and a tax relief bill fast-tracked through the House, which was later found to have a significant drafting error that will likely mean amendments are necessary in the Senate. The big battles of the session were certainly ramping up before the abrupt stop.

Thursday, Idaho Governor Brad Little held a [Press Conference](#) where he outlined the state's allocation of American Rescue Plan Act (ARPA) federal funding. How the state will spend billions of dollars, which, based on current U.S. Treasury guidance, cannot be used for tax relief, the top priority for the Governor and Idaho Legislature.

The Joint Finance and Appropriations Committee (JFAC) spent the week concluding its budget settings. They are now working through supplemental appropriations and federal funding allocation models. When the Legislature returns, these allocations are expected to move fast.

With the Legislature now in a historic recess, the work will stall for a time and then continue into April with no certainty of an end date. However, in a post recess press conference today, Speaker of the House, Scott Bedke (R – Oakley), alluded to the possibility of the session wrapping up within a week of returning from the recess. In the interim, the Governor has many bills to sign, veto, or let go into law without his signature.

There have been nine COVID cases this week in the Capitol. COVID 19 testing and masks remain optional. While many in the Capitol have now been vaccinated, others continue to wait. We have continued to wear masks and abide by best safety practices as we participated in the process in-person this week.

As always, bills from this session can be tracked through the [Idaho State Legislative Website](#). You can also chart progress with the Governor's [Bill Tracker](#). We will also keep you updated on legislation in real-time with the understanding that some ideas and decisions could be discussed during the recess that we won't necessarily know about until the Legislature returns on April 6, 2021. We will remain engaged to the extent we can without compromising safety and contact you as needed during this unique situation.



Benn Brocksome
&
ASSOCIATES

Policy Update

Supplemental Appropriations – Approved by the Joint Finance Appropriations Committee, Passed Senate, to House

[Senate Bill 1179](#) is the appropriation bill approved by the Joint Finance Appropriations Committee (JFAC) for state colleges and universities. It includes funds specific to the Idaho State University Dental Hygiene and Dental Education programs. These were supplemental appropriations in addition to the budget for Idaho State University.

[Senate Bill 1012](#) — Board of Dentistry - **Signed by the Governor, becomes law**
S1012 guarantees a patient's right to file a complaint with the Board of Dentistry.

[Senate Bill 1124 amended](#) - Insurance – Dental Services – Passed Senate (33-2-0) – Passed House Health and Welfare Committee, awaiting House Floor Vote

This bill addresses two concerns with dental plans. First it addresses reimbursement to providers by virtual credit cards that carry a 2-5% fee, impacting dentists already discounted payments. This bill would ensure other forms of payment that do not carry a fee. Secondly, dental plans will lease provider networks to other dental plans that may have restrictions including a different fee schedule that are unknown to the provider. This allows the dentist time to review and opt-out of the new plan. The amendment provides that if a dentist fails to opt-out, it is presumed that the dentist agrees with the plan changes.

Telehealth

In spite of an exponential increase in the use of telehealth and the work of the interim telehealth task force, none of the three telehealth bills that were introduced, will pass.

[Senate Bill 1126](#) - Virtual Care Access - Passed Senate (30 – 5 – 0) – Held in House Health and Welfare Committee

Senate Bill 1126 was introduced in the Senate Health and Welfare Committee, which would implement the Telehealth Task Force's recommendations and create the Virtual Care Access Board. Senate Bill 1126 passed the Senate, but was pulled from the House Health and Welfare Committee.

[Senate Bill 1127](#) - Telehealth – Held by the Chairman in Senate Health and Welfare Committee

Senate Bill 1127 was introduced in the Senate Health and Welfare Committee, aiming to broaden the laws governing telehealth availability to include new technology. This is in line with the Telehealth Task Force Recommendation to include asynchronous communication and assures compliance with the community standard of care.

[House Bill 179](#) – Interstate Health – Held by Chairman in House Health and Welfare Committee

House Bill 179 - This bill would have allowed out-of-state telehealth providers, licensed in other states, to practice in Idaho without an Idaho license. The telehealth license waiver was part of the Governor's declaration related to the COVID-19 public health emergency. This bill would have made that waiver



permanent. ANA Idaho and NLI actively opposed this bill as it could significantly impact license fees paid to the Board of Nursing and impact activities to support nurses in Idaho.

[House Bill 37](#) - Nursing Disciplinary Action- **Passed the House (69 – 0 – 1) - Passed the Senate (35 – 0 – 0) – Signed by the Governor**

This bill extends license action under the Nurse Practice Act to include "guilty pleas" for a criminal conviction. This is related to a 2019 case. In that case, the Board of Nursing could only take action once the individual was convicted in spite of having made a guilty plea.

[House Concurrent Resolution 11](#) - 988 Suicide Prevention Hotline - **Passed House – for Senate Floor Vote**

Idaho has 40% more suicide cases than the national average, and 2020 has a substantially higher number of cases than previous years. Federal legislation in 2020 established the universal 988 phone number for mental health and suicide crisis. The law left it to the states to implement and fund the 988 effort. Idaho currently uses the national 800 suicide hotline that routes calls from the 208 area code to the Idaho center. The new 988 number will improve processing to ensure that anyone located in Idaho can access the Idaho hotline without regard to their originating phone number. This concurrent resolution will allow the Department to come back next session for funding and other resources to support the hotline.

[House Bill 315](#) Opioid Judgement Settlements – **Passed House to Senate Health and Welfare Committee**

The state has received \$2.3M in one settlement and has joined other states in another lawsuit with a \$20M settlement in the opioid crisis. This bill establishes a settlement fund to deposit this money. It authorizes the legislature to appropriate these funds for drug treatment and behavioral health, and would be overseen by the Idaho Behavioral Health Council. H315 is on the committee agenda for when they return in April.

[House Bill 316](#) County Public Health Districts – **Passed House – Under Consideration by Senate Health and Welfare Committee**

Thursday, the Senate Health and Welfare Committee heard testimony on H316. The hearing was to be continued to Monday, March 22nd, however with the legislature now in recess, the hearing will be continued Tuesday, April 6th.

Under existing law, the counties cover the first \$11,000 of indigent claims, and the state Catastrophic Health Care (CAT) fund covers the remainder for those who qualify. With Medicaid Expansion, most of those who would be covered under indigent care are now eligible for Medicaid. In aggregate the counties pay \$9.8M and the state CAT fund pays \$19M for indigent care. This bill would limit county liability in providing indigent services now that Medicaid Expansion has passed. This bill diverts indigent funds from the counties to fund Medicaid Expansion. The bill says that those who qualify for Medicaid, including Expanded Medicaid, or those who are eligible for private insurance, even if they do not seek insurance coverage, are not eligible for county indigent fund coverage. It precludes individuals who refuse to obtain any coverage from being covered by the counties.

A second piece of this bill would move \$9.8M from the state's general fund for the Public Health Districts to the counties to operate the Health Districts. The counties will save because they are no longer paying indigent



funding, so with this the counties pick up the cost of operating the health districts. The state savings from the CAT fund will be used to help fund Medicaid Expansion.

[House Concurrent Resolution 14](#) - Forced Vaccinations - **Passed House (66-0-4) – to Senate Health and Welfare Committee**

This is a resolution that the Idaho Legislature affirms the protection of the human right, that no mandate would ever justify or permit the use of forced immunizations, vaccinations, inoculations or genetic modifications against a person’s will, even during a health emergency. The legislature will oppose any effort, including federal law, that would force a person to receive a vaccination. It is unlikely to get a hearing on the Senate side.

[House Bill 249](#) – Human Sexuality, Instruction - **Passed House Education Committee – Passed the House (56 – 12 – 2) – Awaiting Hearing in Senate Education Committee**

House Bill 249 is presented as a parental rights bill. It distinguishes between “Sex Education” which teaches anatomy and human reproductive physiology and “Instruction in Human Sexuality” that teaches sexual activity, gender identity and sexual pleasure. It was introduced by Representative Barbara Ehardt (LD 33, Idaho Falls). Under current law, a parent can opt-out of sex education. This bill would codify parental rights and require parents to opt-in to human sexuality instruction for their children.

H249 was repeatedly scheduled for a hearing in the Education Committee, but pushed back as other bills had extensive testimony. It was rescheduled for next Monday, March 22nd, but with the suspension of all committee hearings until April, it will now likely get a hearing on Tuesday, April 6th.

[House Bill 233](#) - Child Custody – Removal – **Passed House, Filed for Senate Floor Vote**

For families seeking mental health support for their children with serious mental health disturbances, sometimes as a last ditch effort of hope, in seeking help, they would often encounter threats or actions of child protection to separate the child from their parents. This bill adds a section to the Children’s Mental Services Act to protect children from being separated from their parents when seeking crisis care.

[Senate Bill 1139](#) – Health and Welfare Director Duties - **Passed Senate (33-0-2) – Passed House Health and Welfare Committee – to House Floor**

The bill defines “quarantine” into law and would limit the powers of the Director of Health and Welfare to order isolation or quarantine during a public health emergency. It also sets an three day court challenge to a quarantine or isolation order.

[House Bill 38](#) - Telehealth Prescribing - **Passed the House (69 – 0 – 1) - Passed the Senate (35 – 0 – 0) – Signed by the Governor**

H38 aligns Idaho law with federal DEA exemptions to prescribing controlled substances during emergencies.

[SJR101](#) - Anti-legalization Constitutional Amendment

Passed Senate (24 – 11 – 0) – Passed House State Affairs Committee – Awaiting House Floor Debate and Vote



[Senate Bill 1017](#) – District Board of Health

Passed the Senate (30 – 3 – 2) – Passed the House (43 – 27 – 0) – Signed by the Governor

[House Bill 33](#) – District Board of Health – **Held by the Chairman in House Health and Welfare Committee**

[House Bill 74](#) - Health Ordinances, City Limits

Passed the House (70 – 0 – 0) – Passed the Senate (34 – 0 – 1) – Signed by the Governor

[House Bill 35](#) - Idaho Tuberculosis Hospital

Passed the House (69 – 0 – 1) - Passed the Senate (31 – 0 – 4) – Signed by the Governor

[House Bill 36](#) - Vital Statistics Records

Passed the House (69 – 0 – 1) - Passed the Senate (35 – 0 – 0) – Signed by the Governor

[House Bill 39](#) - Controlled Substances Authority

Passed the House (70 – 0 – 0) - Passed the Senate (35 – 0 – 0) – Signed by the Governor

[House Bill 40](#) - Pharmacy Act

Passed the House (70 – 0 – 0) – Passed the Senate (35 – 0 – 0) – Signed by the Governor

[House Bill 42](#) - Idaho Patient Act – Medical Debt Collection Extension

Passed the House (70 – 0 – 0) - Passed the Senate (32 – 0 – 3) – Signed by the Governor

[Senate Bill 1038](#) - Relating to Public Assistance

Passed Senate (34 – 0 – 1) - Passed House (67- 0 – 0) – Signed by the Governor

[House Bill 108](#) - Medical Cannabis Act – **Held by the Chairman in House Health and Welfare Committee**

[House Concurrent Resolution 6](#) - Prescription Formulas, Insurance

Passed the House on a Voice Vote – Passed the Senate on a Voice Vote

[House Bill 146](#) - Health Care, Sharing Ministries – **Held by the Chairman in House Business Committee**

[House Bill 208](#) - Pharmacy, FDA labeling

Passed House (66 – 0 – 4) – Passed the Senate (35 – 0 – 0) – Signed by the Governor

[House Bill 209](#) – Medicaid Budget Stabilization Fund

Passed House Health and Welfare – Failed House Floor Vote (25 – 42 – 3)



[HERE](#) is the link for the Index of Proposed Rules for all rules seeking legislative approval. Committees in both the House and Senate are assigned rules to approve. As a reminder, if the rules pass either House or the Senate, they are set to go into effect.

These are rules approved by the legislature this:

The legislature didn't approve or reject any rules pertaining to your issue base this week.

These are the rules approved and previously reported on other report pertaining to your issue base:

IDAPA 16 – Department of Health and Welfare

- [16-0000-2000f](#) – Omnibus Rulemaking Reauthorizing Agency Fee Chapters
- [16-0307-2001](#) – Home Health Agencies
- [16-0309-2002](#) – Medicaid Basic Plan Benefits
 - [16-0309-2004](#)
- [16-0310-2002](#) – Medicaid Enhanced Plan Benefits
- [16-0321-2001](#) – Developmental Disabilities Agencies (DDA)
- [16-0417-2001](#) – Residential Habilitation Agencies

IDAPA 24 – Division of Occupational and Professional Licenses

Board of Chiropractic Physicians

- [24-0301-2000F](#) – Omnibus Rulemaking Reauthorizing Agency Fee Chapter

Board of Examiners of Nursing Home Administrators

- [24-0901-2000F](#) – Omnibus Rulemaking Reauthorizing Agency Fee Chapter

Board of Dentistry

- [24-1601-2000F](#) – Omnibus Rulemaking Reauthorizing Agency Fee Chapter
- [24-3101-2000F](#) – Omnibus Rulemaking Reauthorizing Agency Fee Chapter

Board of Medicine

- [24-3300-2000F](#) – Omnibus Rulemaking Reauthorizing Agency Fee Chapters
- [24-3303-2001](#) – General Provisions of the Board of Medicine

Board of Nursing

- [24-3401-2000F](#) – Omnibus Rulemaking Reauthorizing Agency Fee Chapter



Board of Pharmacy

- [24-3601-2000F](#) – Omnibus Rulemaking Reauthorizing Agency Fee Chapter

IDAPA 59 – Public Employee Retirement System of Idaho (PERSI)

- [59-0101-2001](#) – Rules for the Public Employee Retirement System of Idaho (PERSI)