



## **Week 15 Idaho Legislative Update for April 19 – 23, 2021**

The fifteenth week of the Sixty-Sixth Idaho Legislature's First Regular Session saw continued drama, scandals, and political theatre as we passed 100 days in session, putting us in the top four longest sessions in Idaho history. We are rapidly approaching the longest session ever, and if business continues for two more weeks, we will have tied or passed the record. This has certainly been a long and contentious session, with many big policy debates still unresolved.

More new bills were introduced this week, and several committees met to address new policy ideas. The Senate continued to clear and shorten their calendar but recessed Thursday afternoon until Monday without addressing transportation funding and dismissing a large income tax relief bill, clearing the way for the House to rewrite and pass the third iteration of an income tax relief bill this week.

Meanwhile, The House introduced several new bills and continued to hold several appropriation bills from being heard while lengthy floor hearings on political hot button issues continued. The largest budgets in the state, K-12 education, higher education, and Health and Welfare's appropriations, continue to be tinkered with after the House voted them down based on political rhetoric and fears of ideological indoctrination being weaponized. Rather than setting budgets this week, the House has instead taken up the policy issues associated with educational curriculum for both K-12 and higher education as a political litmus test prior to funding education.

Last week, Governor Brad Little held a press conference where he vetoed [Senate Bill 1136a](#) and [House Bill 135a](#) relating to emergency declarations and executive powers. This week the House addressed the veto of House Bill 135a by overriding it in a close vote on the House Floor of 48 – 19 – 3 with a threshold of 47 needed. Simultaneously, the Senate considered a veto override of Senate Bill 1136a, failing to do so with a needed 24 votes and a vote count of 23 – 12 – 0. House Bill 135a will be taken up by the Senate as early as Monday next week.

Next Wednesday, the House Ethics Committee will be meeting to consider pending ethics violations stemming from a criminal case against one of the House Members. Through this ethics trial and process, the House will decide to retain or expel the House member in question adding to the divisiveness in the building.

This week, allocation of the federal American Recovery Plan Act (ARPA) relief funds continued through the process. In addition to the ARPA funding bills, a concurrent resolution was introduced in the House to allow the legislature to recess and return on or before September 1, 2021, effectively creating a year-round legislature. The House cited ARPA funds and redistricting to justify this resolution.

With no end insight at the end of week fifteen and the possibility of a lengthy recess looming, the House currently has over 40 bills to address in addition to the budget bills that have to be brought back to life. All bills from this session can be tracked through the [Idaho State Legislative Website](#). You can also chart progress with the Governor's [Bill Tracker](#) or call us anytime as we continue to serve you in this unusual and lengthy session.



## Policy Update

### [House Bill 339a](#) Mask Mandates Prohibited

#### **Passed House (47-22-1), to Senate Health and Welfare Committee**

It is unlikely that this bill will get a hearing on the Senate side as the Health and Welfare Committee has suspended its meetings. The bill would prohibit the state or any political subdivision including counties, cities, public health districts, school districts, colleges and universities from require it face masks, shields or other face coverings for the purpose of preventing contagious disease. It does include an exemption for hospitals and health care facilities. This bill if passed could be contrary to infection control standards that could affect public health clinics or clinical education.

### [Senate Bill 1179](#) – Higher Education Budget

#### **Passed Senate (27-6-2), Failed in the House (13-57-0) – Returned to JFAC**

The higher education bill (S1179) is being held in JFAC while the House debates “Critical Race Theory” and “Social Justice” indoctrination. The bill 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. The legislature cannot adjourn without passing all budget bills.

### [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 (49-17-4), Signed by the Governor, becomes Law**

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.

### [Senate Bill 1185](#) – Medicaid Budget

#### **Passed the Senate (29-6-0) – Awaiting House Floor Vote**

The federal government has allocated increased funding specific to Medicaid as a result of the pandemic, yet lawmakers could still pushback on the high cost of Medicaid. The Medicaid budget remains on the House calendar.

### [House Bill 38](#) - Telehealth Prescribing

#### **Passed the House (69 – 0 – 1) - Passed the Senate (35 – 0 – 0), Signed by the Governor, becomes Law**

House Bill 38 aligns federal DEA exemptions to prescribing controlled substances during emergencies.

### [Senate Bill 1126](#) - Virtual Care Access

#### **Passed Senate (30 – 5 – 0) – Held by the Chairman in House Health and Welfare Committee**



Senate Bill 1126 would have implemented the Telehealth Task Force's recommendation and create the Virtual Care Access Board.

#### [Senate Bill 1127](#) - Telehealth

##### **Held by the Chairman in Senate Health and Welfare Committee**

Senate Bill 1127 aimed to broaden telehealth availability laws to include asynchronous communication.

#### [House Bill 179](#) – Interstate Health

##### **Held by Chairman in Hearing in House Health and Welfare**

House Bill 179 would have allowed out-of-state telehealth providers to practice in Idaho without an Idaho license. This would have had a significant impact on fees paid to the Board of Nursing to support programs.

#### [House Bill 249](#) – Human Sexuality, Instruction

##### **Passed the House (56 – 12 – 2) – Held in Senate Education Committee**

House Bill 249 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. Under current law, a parent can opt-out of sex education. This bill would have required parents to opt-in to human sexuality instruction for their children. The bill failed in committee.

#### [Senate Bill 1110](#) – Voter Initiatives

##### **Passed Senate (26-9-0), Passed House (51-18-1), Signed by the Governor, becomes Law**

This bill increases the requirements to place any voter initiative on the ballot. It requires signatures from 6% of voters in the past election from all 35 legislative districts from the current law that requires signatures from 18 legislative districts.

#### [House Concurrent Resolution 11](#) - 988 Suicide Prevention Hotline

##### **Passed House, Passed Senate - Adopted**

The resolution establishes “988” as the Suicide Prevention Hotline in Idaho and sets up funding to be considered during the next legislative session to operate the program. This moves the hotline from an 800 number to the three digit 988 number and includes technology enhancements.

#### [House Bill 315](#) - Opioid Judgement Settlements

##### **Passed House (67-0-3), Passed Senate (35-0-0), Signed by the Governor, becomes Law**

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 to be overseen by the Idaho Behavioral Health Council.

#### [House Bill 316](#) County Public Health Districts

##### **Passed House (66-2-2) – Awaiting Senate Floor Vote**

With the extended coverage under Medicaid Expansion, this bill would eliminate counties’ responsibility for indigent care and move authority for the Health Districts under the counties. It would then move funding for



the Health Districts from the state to the counties and money from the Catastrophic Healthcare Fund to finance Medicaid Expansion.

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.

[HJR004](#) – Anti-legalization Constitutional Amendment  
**Failed House (46-28-0)** required 2/3<sup>rd</sup> majority

[Senate Bill 1017](#) – District Board of Health  
**Passed Senate (30 – 3 – 2) – Passed the House (43 – 27 – 0) – Signed by the Governor, becomes Law**

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

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

[Senate Bill 1139](#) – Health and Welfare Director Duties  
**Passed the Senate (33 – 0 – 2) – Passed House (65-2-3), Signed by the Governor, becomes Law**

### **ARPA Funding Interim Committees**

[House Concurrent Resolution 18](#) – ARPA, Water  
**Passed House (64 – 4 – 2) – Awaiting Senate Floor Debate and Vote**  
This legislation would authorize an interim committee comprised of the House Resources and Conservation standing committee's membership and the Senate Resources and Environment standing committee members to review the use of ARPA funds for allowable water infrastructure projects.

[House Concurrent Resolution 19](#) – ARPA Funds, Study Committee  
**Passed House (54 – 13 – 3) – Awaiting Senate State Affairs Committee Hearing**  
This legislation would authorize an interim committee comprised of both Senate and House leadership, the JFAC co-chairs and 2 members from the House, and 2 members from the Senate to review the use of ARPA funds for federal programs.

[House Concurrent Resolution 20](#) – ARPA Funds, Sewer & Broadband  
**Passed House (55 – 11 – 4) – Awaiting Senate Floor Debate and Vote**  
This legislation would authorize an interim committee comprised of the House Environment, Energy & Technology standing committee, and the Senate Local Government & Taxation standing committee members to review the use of ARPA funds for allowable broadband and sewer infrastructure projects.



## **ARPA Funds**

[Senate Bill 1208](#) – Appropriations Controller, Additional funds, ARPA

### **Passed Senate (34 – 0 – 1) – Awaiting House Floor Vote and Debate**

Senate Bill 1208 is an FY 2021 supplemental appropriation bill for the Office of the State Controller. It provides \$51,774,300 to be distributed to local government units in Idaho with populations under 50,000 pursuant to the American Rescue Plan Act of 2021.

[Senate Bill 1204](#) – ARPA Funds State Funds

### **Passed Senate (26 – 9 – 0) – Awaiting House Floor Debate and Vote**

This legislation addresses the federal American Rescue Plan Act of 2021 (ARPA) in four ways.

First, Section 1 declares cognizable any funding from the ARPA, or will be, directed to any Idaho state agency and sets aside the non-cognizable provisions of Section 67-3516(2), Idaho Code. As a result, these federal funds will not be approved for expenditure by the Division of Financial Management and the Board of Examiners and would require legislative appropriation for expenditure.

Second, and within Section 1, there is the legislative intent that provides guiding principles on the appropriation and expenditure of ARPA funds.

Third, Sections 2 and 3 create two funds from which to appropriate and expend ARPA funding. One fund is to account for receipts and disbursements of ARPA funding, and the other is to be used for cost recovery or reimbursement of funds. Expenditure from these funds will be by appropriation only. It will allow for tracking of these ARPA funds separately from other federal funding and previous COVID-19 federal funding, such as from the CARES Act.

Lastly, Section 4 provides an emergency clause that will make this act in full force and effect upon passage and approval.

## **Rules**

[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 to date:

**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)