



## **Week 16 Idaho Legislative Update for April 26 – 30, 2021**

The sixteenth week of the Sixty-Sixth Idaho Legislature's First Regular Session included continued recessing by both the House and Senate; much of the work was overshadowed by a lengthy and uncomfortable House Ethics Committee hearing that took much of the energy and focus of the House members this week. The hearings resulted in a fiery and unanimous bi-partisan recommendation for the censure, suspension, and expulsion for "conduct unbecoming of a representative" against freshman Rep. Aaron von Ehlinger (R- District 6), who resigned just prior to a House floor vote for expulsion Thursday afternoon. As the legislature clears the 110<sup>th</sup> day of the session, it is ever closer to the record for the longest session, and it has certainly been a contentious four months so far.

Aside from the ethics saga, progress was made on the passing of budgets and a bill to ensure the legislature can appropriate federal ARPA relief funds. While transportation funding, education funding and income tax relief remain unfinished, rumors of a new property tax bill and another attempt to balance powers between the legislature and the Governor during times of emergency loom and could further lengthen the session if they are introduced next week in addition to the other rumored attempt to justify extending the session into September.

New legislation this week was contained to JFAC appropriations for school funding, including state and ARPA dollars being allocated. Prior to recessing yet again, the Senate cleared their calendar, leaving the major topics for next week. Similarly, the House passed several budget bills for education and health and welfare but again recessed Thursday afternoon until Monday without addressing the remaining items on their calendar.

Following Governor Brad Little's veto of [Senate Bill 1136a](#) and [House Bill 135a](#) relating to emergency declarations and executive powers, the House and Senate went back to work crafting a new version of SB 1136a with the mantra that it must be passed before they will end the session. Meanwhile, the Senate is yet to take up the veto override on HB 135a, which passed the House last week.

Major topics remaining for next week include finishing the budgets, income tax cuts, transportation funding, property tax cuts, the balance of powers legislation, the use of ARPA funds, and several proposed interim committees to study the ARPA funds. It remains unclear if or when the legislature will "Sine Die" formally ending the session. Rumors of an extended recess continue with the belief that it would be for a month or more if they recess.

As we continue into a rare fifth month of the legislative session in Idaho, all bills 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.



## Policy Update

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

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

The bill would have prohibited counties, cities, public health districts, school districts, colleges and universities from requiring face masks, shields or other face coverings for the purpose of preventing contagious disease. This is contrary to infection control standards that could have affected public health clinics or clinical education.

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

#### **Passed in the Senate but Failed in the House, then passed in the House with amendments**

Finally, the higher education budgets for state colleges and universities was passed in the House on Tuesday, but with a \$2.5M cut in general funds to counter “social justice programming” from Boise State University, Idaho State University and the University of Idaho. The university funding bill passed only after Governor Little signed HB377 that prohibits teaching “critical race theory.” 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.

### [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) – Passed the House (36-34-0)**

The Medicaid budget narrowly passed the House. The federal government has allocated increased funding specific to Medicaid as a result of the pandemic, yet some lawmakers pushed back on the high cost of Medicaid.

### [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 316aaS](#) 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. The bill was amended to include approval or denial of health district orders by the affected counties and to make the law effective March, 2022.

[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**

### **Appropriations and Budgets**

[House Bill 382](#) – Appropriation, Department of Health and Welfare – Medicaid

**Passed House (57 – 12 – 1) - Awaiting Senate Floor Debate and Vote**

Relates to the appropriation to the Department of Health and Welfare for fiscal year 2021 and fiscal year 2022.

[House Bill 356](#) – Appropriation, Public Schools, Children's Programs Division

**Awaiting House Floor Debate and Vote**

Relates to the appropriation to the Public Schools Educational Support Program's Division of Children's Programs for fiscal year 2022 and fiscal year 2021.

[Senate Bill 1203](#) – Appropriation Innocence Fund Transfer

**Passed Senate (35 – 0 – 0) – Passed House (66 – 0 – 4) – Awaiting Signature by the Governor**

Appropriates and transfers moneys from the General Fund to the Innocence Fund for fiscal year 2021.

[Senate Bill 1207](#) – Appropriation Legislative Branch, Trailer

**Passed Senate (34 – 0 – 1) – Passed House (66 – 1 – 3) – Awaiting Signature by the Governor**



Relates to the appropriation to the Legislative Branch for fiscal year 2022.

[Senate Bill 1210](#) – Appropriation, Health and Welfare, Public Health Services

**Failed House (28 – 41 – 1)**

Relates to the appropriation to the Department of Health and Welfare for fiscal year 2022.

[Senate Bill 1212](#) – Appropriation Health and Welfare, Public Health Services

**Awaiting Senate Floor Debate and Vote**

Relates to the appropriation to the Department of Health and Welfare for fiscal year 2022.

### **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) – Passed House (67 – 0 – 3)**

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) – Passed House (38 – 31 – 1) – Awaiting Signature by the Governor**

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)