



Week 17 Idaho Legislative Update for May 3 – 7, 2021

The seventeenth week of the Sixty-Sixth Idaho Legislature's First Regular Session felt like the end of the session we are accustomed to. The House and Senate recessed late Wednesday night until Wednesday, May 12th, giving Governor Little the mandatory five legislative days (excluding Sunday) to treat all remaining bills that have passed both bodies this session. After three very long and fast-paced days, there is a modest amount of procedural work left for the House and Senate to take up when they return, but rumors continue about more bills coming, and the question of extended recess vs. "Sine Die" remains.

Both the House and Senate worked long into the night Monday, Tuesday, and Wednesday at a feverish pace to wrap up big policy debates and approve budgets. Four new bills pertaining to executive powers and emergency declarations moved forward in a mere three days after Governor Brad Little's veto of [Senate Bill 1136a](#) and [House Bill 135a](#) relating to emergency declarations and executive powers that were both overridden in the House, but failed in the Senate. Also introduced and passed in a matter of three days was a lengthy and complex property tax bill. Several legislators voted no on these bills due to their hurried and poor process.

JFAC finished trailer appropriations and supplementals to budgets, and JFAC Co-Chair Rep. Rick Youngblood introduced another bill this week to ensure the legislature can appropriate the federal ARPA funds. Ultimately transportation funding, education funding, and income tax relief passed. The new property tax bill also passed on a narrow margin of 19-16-0 in the Senate. Each of these will have significant impacts on state funding.

With the major policy decisions and budgets now before the Governor, and another round of attempts to balance powers between the Legislature and the Governor during times of emergency, Governor Little has big decisions in front of him. His choices to manage state spending and properly fund government, as well as potentially redefine the boundaries and roles of Idaho's Governor and Legislature in emergencies, leaves the end of the session looming. Vetoes on the emergency powers or other major policies could further lengthen the session. While many in and out of the capitol believe it is not a reason to stay, members of leadership on both sides of the rotunda may see it as a justification to lengthen the longest session even further.

Upon returning from recess next week, the Idaho legislature will have shattered the record for the longest session, arguably also the most dysfunctional and contentious. They also broke the record for the most bills introduced as many policy ideas went through multiple iterations prior to passing both bodies. It is often a part of the process to work ideas multiple times and in different ways, but this year has been the exception to the rule on nearly every front.

As we move into the middle of May and further into a rare fifth month of the legislative session in Idaho, the end of the session seems to remain elusive. 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.



Benn Brocksome
&
ASSOCIATES

Policy Update

Higher Education Appropriation – **H387 Signed by the Governor; S1175 Signed by the Governor, becomes Law.**

The higher education budgets [House Bill 387](#) passed with a \$2.1M penalty (\$1.1M Boise State and \$500,000 each to UofI and ISU) over social justice programs. [Senate Bill 1175](#), Appropriations for Health Education Programs passed and was signed by the Governor. 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), Signed by the Governor, becomes Law

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 37](#) - Nursing Disciplinary Action

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

House Bill 37 extends license action under the Nurse Practice Act to include "guilty pleas" for a criminal conviction.

[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 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.

[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), Passed Senate (35-0-0), to Governor

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 2/3rd 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) – Passed Senate (32-2-1) - Awaiting Signature by the Governor

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

Passed House (69 – 0 – 1) – Passed Senate (34 – 0 – 1) – Awaiting Signature by the Governor

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) – Signed 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

Passed Senate (26 – 7 – 2) – Passed House (41 – 24 – 4) – Awaiting Signature by the Governor

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) – Passed Senate (28 – 7 – 0) – Adopted

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) – Signed by the Governor



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)