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## **Week 18 Idaho Legislative Update for May 10 – 14, 2021**

The eighteenth week of the Sixty-Sixth Idaho Legislature's First Regular Session saw the Senate finally adjourn "Sine Die" and the House... well, they recessed again until December 31<sup>st</sup>, 2021, allowing Speaker Scott Bedke to call them back when he deems it necessary through a procedural loophole rather than adjourning the longest and ugliest session in Idaho history. Late Wednesday night, the Senate finished their work and adjourned, forgoing many of the customary farewell speeches and traditions as they approached 11:00 PM. The House recessed late Wednesday night after a failed attempt to adjourn. A nontraditional end to a nontraditional session.

Governor Little completed the validation of bills within the mandatory five legislative days leaving only a couple of housekeeping items for him to manage as the session concluded. He summarized the session well in a press release Thursday, stating:

*This was a truly historic legislative session in many ways – some good, and some not as good... This is the longest legislative session in Idaho history... That's not something anyone should aspire to happen. This is Idaho, not Washington, D.C. Our citizens expect legislators to get in, do the work of the people, and leave expeditiously. That is what the Idaho Constitution intended... An unknown end-of-session date and important work left undone create major dysfunction in state government, namely with the implementation of administrative rules. I know that's not an exciting topic, but it comes down to the nuts and bolts of state government and our ability to provide service to Idahoans. My executive administration and I will find ways to make state government function and move forward – as we have before – but it will cost time and money.*

Questions remain about laws taking effect, rules being implemented, and what the interim committees and other new mandates from the legislature will look like in the future. Similarly, many policies and implementation questions remain about laws passed at the last minute, including the 26-page property tax bill (HB 389) and the bills to prevent the state from using ARPA dollars without legislative appropriations. With so many unknowns resulting from this session, there is less of a celebration of a job well done, and more of a looming cloud of doubt and confusion as the session concludes in a most peculiar way.

As the session ends, interim committees, agency negotiated rulemakings, and boards and commissions are ramping up. Traditionally, there is a grace period between the session ending in March and these meetings getting started in May and June, but this year again is the exception. We will be working diligently to keep you up to date as we move forward when planning for the next session and working collaboratively with the legislature, executive branch, and agencies on policies, rules, and processes that affect you.

We also hope to spend more time out and around our great state with you and look forward to more in-person meetings and events as we ascend out of a pandemic and a challenging session. We remain grateful for the chance to represent you and your interests in the Idaho Capitol. Despite the negativity, health and safety concerns, and the drama this session held, we believe it still yielded some positive outcomes. We built your reputation with policymakers across the state and were able to represent you well. Again, thank you.

All bills from this session can be tracked through the [Idaho State Legislative Website](#). You can also review the Governor's [Bill Tracker](#) for more information, and please call us anytime as we continue to serve you.



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## 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.

[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**



Contrary to infection control standards, this 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.

[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), Signed by the Governor, becomes Law**

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 & Budgets**

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

**Passed House (57 – 12 – 1) – Passed Senate (32 – 2 – 1) – Signed by the Governor**

Approves Medicaid budget for 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) – Signed 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) – Signed 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) – Signed 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 – Failed**

This legislation would have authorized an interim committee comprised of the House Resources and Conservation committee's members and the Senate Resources and Environment 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 authorizes 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 – Failed**

This legislation would have created an interim committee comprised of the House Environment, Energy & Technology committee, and the Senate Local Government & Taxation 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 a 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) – Signed by the Governor**

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

First, Section 1 declares that any funding from the ARPA, now or in the future, directed to any Idaho state agency requires 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 of the bill.

#### [House Bill 394](#) – Effective Dates

##### **Passed House (64 – 1 – 4) – Passed Senate (34 – 1 – 0) – Signed by the Governor**

This legislation ensures that all legislation passed and signed by the governor or allowed to become law by the governor without his signature, that does not have an emergency clause, will become effective on July 1, 2021. This bill was necessary in the event the legislature fails to adjourn, prior to July 1, the statutory effective date of new laws. Rather than adjourning, the legislature is now in recess up to December 31.

#### [House Bill 407](#) – Effective Dates

##### **Passed House (62 – 2 – 5) – Passed Senate (29 – 0 – 6) – Awaiting Signature by the Governor**

Due to length of this session, there was a need for this bill and HB 394 to enact emergency clauses for all bills that passed this session. This serves to enact all bills that don't have an emergency clause, otherwise implementation would be delayed.

### **Rules**

[HERE](#) is the link to the Index of Proposed Rules for legislative approval. Committees in both the House and Senate are assigned rules to approve, and if the rules pass either the House or the Senate, they are set to go into effect upon adjournment of the legislature "Sine Die." However, the House has now voted to go into recess until December 31, rather than adjourning. The Senate did vote to adjourn, but there must be concurrence between the chambers. An Attorney General's opinion is that this now puts both the House and Senate at recess. It is unclear when or if administrative rules will become effective.

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)