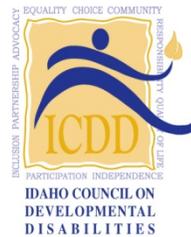




April 26

2012

# Final Legislative Report



## INTRODUCTION

The Idaho Legislature ended its 2012 Session on March 29, 2012 after 81 days.

### Length of Recent Sessions (Days)

2012	2011	2010	2009	2008	2007	2006	2005	2004	2003
81	88	78	117	87	82	93	87	69	118

The economy for 2012 was improved over 2011 which allowed for restoring some services, implementing some tax cuts and putting money into the State’s reserves. The budget for the year was an increase of 6.8% over the State Fiscal Year 2012 budget.

Of the 554 bills that were introduced, 342 were passed. The bills covered a wide range of public policy issues from texting while driving to animal cruelty to dealing with the “Occupy Boise” demonstration across the street from the Capitol.

For many of the legislators, this was also their last term. Eight of 35 Senators are retiring (including Sen. John McGee who resigned during the session) and 25 of 70 members of the House are leaving. However, some of those may be back because 10 of those 25 are running for the Senate. Much of this change is due to redistricting, a redrawing of the legislative district boundaries that occurs every 10 years after the census. The result will mean the loss of a lot of knowledge about the state and the legislative process.

The session began with the review of 2,182 page of rules. Most of the 200 dockets were approved but there were parts of two dockets dealing with Medicaid that were rejected. Legislation was also passed that will result in some of the approved rules having to be rewritten and brought back next year.

Below are summaries of some of the legislation that passed or considered. These include some of the bills that were monitored during the session by the Council.

## CRIMINAL JUSTICE

**H 648** - Requires that there be mental health and substance abuse screenings for all people convicted of a felony to help the judge in sentencing. This law says

that the Department of Correction will pay for screenings, assessments and treatment for substance use disorders and the Department of Health and Welfare will pay the expense for mental health examinations. The costs for assessments, evaluations and treatment could be recovered from offenders based upon their ability to pay and the funds they receive from other sources. This process will start on March 1, 2013.



**S 1337aa** - Changes the law that deals with the sexual exploitation of a child, including revising definitions to address technological changes and trends used to exploit children. It also clarifies what is unlawful conduct and creates different levels of penalties based on the severity of the crime.

**S 1338** - Changes the law regarding the use of the Internet and other communication devices regarding enticement of a child.

## EDUCATION



**H 426aaS** - Establishes a program in the State Department of Education that pays for a portion of certain online courses for students who agree to take a full course load with the intent of earning up to two years of college credits while still in high school.

**H 481** - The number of new public charter schools that could be established each year has been capped at 6 statewide. Within a school district, that cap was 1/year. This law removes those caps.

**H 626** - Provides for a web-based clearinghouse of approved online courses, accessible to students, parents and schools. The clearinghouse will provide information on available courses, including quality ratings by people who have taken the course. This is one of the recommendations of the 2011 Public School Technology Task Force.

**S 1224** - Requires that teacher evaluations to include parental input are to begin with the 2012-2013 school year. This is the same as the requirement for administrator evaluations.

**S 1237** - Revises the definition of an online course. The current language does not allow the teacher of an online course to be at the same location or school where the course is being taken. This language could prohibit a teacher from putting course information into a learning management system in his or her office while students are online completing assignments in a computer lab in the same building.

There were also a number of bills that changed or clarified parts of the 2011 Students Come First Act that was sponsored by Superintendent Tom Luna.

## VOTING AND GOVERNMENT

**H 391** - Removes the names of presidential candidates from the primary election ballot since delegates to the national conventions are now being selected at political party caucuses.

**H 491** – Gives the authority to certify voting machines to the Secretary of State and requires testing of the machines prior to them being certified.

**H 404aaS** - Prohibits camping on Capitol Mall properties and other state facilities and provides for the disposition of property left unattended on Capitol Mall properties. This law went into effect as soon as it was signed by the Governor (2/21), but the Occupy Boise protestors filed suit in federal court and Judge Lynn Winmill ruled that although people could not “camp” on the site (sleep, cook, etc.), their tents could remain they are part of the Occupiers’ First Amendment right to free speech. Although the Governor had said that the campers had to leave by Feb. 27, the judge gave them until March 2 to remove their “camping” gear and the tents will remain until an evidentiary hearing is held. As a result of this, the doors to the offices of the House members in the Garden Level East Wing of the Capitol remained locked through the rest of the session. This created access difficulties for individuals with mobility problems.



**H 693** - This bill was passed in response to the ruling regarding H404. It allows the director of the Department of Administration to promulgate rules governing public conduct on the Capitol Mall and directs that rules be promulgated within 30 days. It also adopts the security and law enforcement provisions currently applicable to the Statehouse for all state property in the Capitol Mall area.

**H 695** - Creates the Legislative Legal Defense Fund in the Legislative Branch to be shared equally between the House and the Senate. It is funded in the amount of \$200,000 for SFY 2013. Expenditures must be approved by the Senate President ProTem and the House Speaker.

## HEALTH AND HUMAN SERVICES

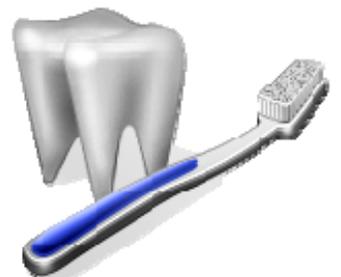
**H 441** - Authorizes county commissioners and the board of the Catastrophic Health Care Cost Program to pay for authorized expenses to manage health care costs for indigent persons. Examples of some of the alternatives they could pay for are an insurance premium for people who the county determines to be indigent or providing some preventative care or case management services to assist with an indigent person's health care.

**H 484** - Removes the limits on the number of terms a person can serve on a board of community guardians

**H 487** - Revises provisions regarding responsibility for costs of commitment and care of patients for mental health treatment and allows counties to access Medicaid rates for such commitments.

**H 522aa** - Prohibits the use of public assistance benefit cards or the cash obtained with public assistance benefit cards from being use for inappropriate purchases or venues. These prohibited uses and purchases include gambling, tobacco products, liquor, tattoos and adult entertainment. This law also prohibits anyone other than the authorized user to use these cards.

**H 609** - Restores some of the services that were cut with H260 last year. Specifically it



- Clarifies the difference between skill training for mental illness and skill training for developmental disabilities so that people with dual diagnoses will not have to choose between the two;
- It eliminates the language from HB 260 that said that budgets for adults with developmental disabilities would be placed in tiers similar to what is being done with children's services redesign has been deleted
- Reinstates coverage for preventative and restorative dental services for adults with disabilities on the DD and A&D waiver

**H 631aa** - Continues the Intermediate Care Facility Assessment Act beyond 2012 to ensure that the moneys generated from the assessment shall be used to primarily increase the payments to intermediate care facilities in order to offset the cuts to the facilities.

**H 632** – Revises provisions relating to youth athletes and concussion and head injury guidelines and requirements. Requires that coaches, referees, athletic trainers, parents and youth athletes receive information regarding the signs and symptoms of concussions and the nature and risks of concussion and head injury. Provides guidelines for schools to follow in developing a concussion protocol for removing young athletes from play who are suspected of sustaining a concussion.

**S 1294aa** - Revises the Medical Consent and Natural Death Act to clarify the interaction between the Physician Orders for Scope of Treatment (POST) form and other medical directives, such as the living will and durable power of attorney for health care.



**S 1326** - Phases out the end-stage renal disease program by June 30, 2013. This was one of 3 recommendations from the Office of Performance Evaluations in a recent study. This program provides financial assistance to individuals with end-stage renal disease. It has been in place since 1970 when other types of financial assistance were not available. Now Medicare, Medicaid and private insurance provide for some or all of these costs, although transportation costs for individuals without Medicaid remains a barrier.

**S 1348aa** - Revises provisions relating to health care providers who are not willing to go along with the desires of patients and those authorized to consent for them and to prevent the discriminatory denial of food, fluids or non-futile, life preserving medical treatment to dying patients without the patient's consent.

## TAXATION

**H 563** - Reduces the Idaho individual income tax rate for taxable income over \$7,500 from 7.8 percent to 7.4 percent, and reduces the maximum corporate income tax rate from 7.6 percent to 7.4 percent. The impact of these changes will be to reduce the general fund revenue for FY 2013 by \$35.7 million.

## TRANSPORTATION

**S 1274aaH** - Prohibits texting with a handheld wireless device while driving and provides infraction penalties for violators.

## APPROPRIATIONS (Funding for programs)

**H 574**– Appropriates \$13,070,000 of state funds for the Catastrophic Health Care Fund for Fiscal Year 2013; this fund pays the costs of medical care for individuals who are indigent after the county of residence pays the first \$11,000.

**H 657** - This bill provides the SFY2013 appropriation and intent language for three DHW divisions. Included in this appropriation is \$47,762,500 for the Independent Councils of which \$635,900 is for the Council on Developmental Disabilities. As with all appropriations for state agencies, this includes a 2% across the board raise for Council classified staff.



**H 658** - This bill provides spending authority for a variety of Divisions within Health and Welfare for the current fiscal year. Included in this bill are \$1.2 million for increased targeted service coordination rates as required by a court ruling, \$194,700 for legal fees for the Jeff D. lawsuit, and \$1.75 million to plan for the future use of the South West Idaho Training Center (formerly known as Idaho State School and Hospital).

**H 682** - This bill appropriates \$1,916,400,800 for the Division of Medicaid and the new Division of Licensure and Certification within DHW. Included is a line item 11

that authorizes \$1,511,900 in state funds for H260 revisited. This to cover the costs of the services restored in HB609, specifically removing the restriction on PSR and developmental therapy and restoring preventative dental care to individuals on the DD and A&D waivers. Removing the reference to budget tiers for adults with developmental disabilities had no fiscal impact.

**H 695** - This bill creates the Legislative Legal Defense Fund in the Legislative Branch to be shared equally between the House and the Senate. It is funded in the amount of \$200,000 for SFY 2013. Expenditures must be approved by the Senate President ProTem and the House Speaker.

**S 1377** - This bill provides a supplemental appropriation of \$367,000 for the current year for the community supported employment in VR and \$25,277,700 for total appropriation for the VR for SFY2013; included in this amount is \$422,700 for the End State Renal Disease program (which will be phased out this year) and \$174,700 for the Council for the Deaf and Hard of Hearing. Some changes were made to this bill by S1415.

**S 1409** - This bill provides an appropriation of \$80,761,600 for Mental Health, Psychiatric Hospitalization and Substance Abuse for SFY2013; included in this amount is \$50,000 for a Suicide Hotline (the Suicide Hotline will be operated within Veterans Services where there is also a small appropriation for it). This bill includes the appropriations for State Hospital North and South, community mental health services, and the state substance abuse program.

## **BILLS OF INTEREST THAT DID NOT PASS**

**H 388** - This legislation updates existing code with regard to the Early Childhood Coordinating Council and replaces the existing Executive Order. It was amended by the sponsor to remove some references to federal codes. The DD Council is represented on this council.

**H 437/S 1216** - This bill would allow individuals who contribute to Special Needs Recreation (a community recreation program for youth with disabilities in Coeur d'Alene) to receive a credit on their income taxes. If passed, it would be effective retroactively January 1, 2012.

**H 559** - Limits future general fund appropriations to 5.33% of Idaho personal income minus any government transfer payments. If revenues are more than this spending limit, those surplus revenues would go into the “rainy day” fund or for tax cuts. This limits government spending into the future and prevents excess revenues from being used for purposes other than the state’s savings account of reducing taxes which in turn can reduce revenue. It was estimated that this bill, if passed, would have cost the state \$220,000,000 in lost revenue.

**H 581**– This bill would amend the sales tax laws in Idaho to allow Idaho to participate with 24 other states in the Streamlined Sales and Use Tax Agreement and would include Idaho in the federal Marketplace Fairness Act. These would permit Idaho to collect sales tax on internet sales. Estimated annual receipts are \$35,000,000 and cost to administer is estimated at \$17,000 annually.

**H 640** - The bill would create a Children and Families Legal Services Fund, paid for with filing fees on divorces and other domestic relations action, and administered by the court. The fund would be used by Idaho Legal Aid to represent indigent people in civil actions.

**S 1220** – This legislation strengthens Idaho’s existing anti-bullying laws by ensuring that districts, schools and school personnel have a role in preventing and intervening in bullying should it occur. This bill ensures that Idaho’s law also applies to minors present on school property or at school activities who may not currently be students. The second section of the bill specifies a role for schools in informing staff, parents and students through student hand books and other means that bullying is prohibited and to convey to students, staff and parents what constitutes bullying and to further ensure all are aware of school district policy.



**S 1358** - This bill replaces and changes SB1220, by adding to and amends existing law to provide for civil and criminal offenses to bullying, harassment, and cyberbullying against a student and to provide school responsibilities. One section has been added (“*Substantially disrupting the instructional program or the orderly operations of the school*”) that has nothing to do with bullying but criminalizes student behaviors which should not be the concern of law enforcement. That section was removed from the bill by the sponsor.

**S 1310** - This bill combines the Interagency Working Group on Public Transportation Services (the Council is a member) with the Public Transportation Advisory Committee and adds additional members to create the Idaho Mobility Council. The purpose of the Idaho Mobility Council is to provide leadership, enhance coordination, and leverage funding in the development of Idaho's mobility system. This bill outlines the role and responsibilities, composition, term, meetings, and participation requirements of the Idaho Mobility Council.

**S 1387** - This bill replaces SB1349 and amends current law to require that woman seeking abortions must have an ultrasound prior to that procedure and that the woman's physician must provide documentation of that ultrasound along with specific details regarding the fetus on a form included in this bill; situations of rape and incest are not exempted from this requirement.

Thank you to the Legislative Services Office for the information provided in their Sine Die Report, 2012 Session Summary as a partial source for this report.