

SENATE JOURNAL OF THE IDAHO LEGISLATURE

FIRST REGULAR SESSION
SIXTY-FIFTH LEGISLATURE

**EIGHTIETH LEGISLATIVE DAY
WEDNESDAY, MARCH 27, 2019**

Senate Chamber

President McGeachin called the Senate to order at 10 a.m.

Roll call showed all members present except Senator Johnson, absent and formally excused by the Chair.

Prayer was offered by Chaplain Montie Ralstin.

The Pledge of Allegiance was led by Katie Angell, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 26, 2019, was read and approved as corrected.

LAKEY, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Winder, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SCR 117

BY STATE AFFAIRS COMMITTEE A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY AND TO MAKE RECOMMENDATIONS REGARDING THE EFFECTS OF MEDICAID ELIGIBILITY EXPANSION ON EXISTING PROGRAMS THAT SERVE MEDICALLY INDIGENT INDIVIDUALS AND REGARDING RELATED ISSUES.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, on November 6, 2018, the Idaho electorate passed Proposition 2, expanding eligibility for Medicaid to persons with a modified adjusted gross income at or below 133% of the federal poverty level; and

WHEREAS, it is anticipated that Medicaid eligibility expansion will reduce or eliminate the need for existing programs that serve medically indigent individuals, including the county medically indigent program and the catastrophic health care costs program; and

WHEREAS, federal financial participation for Medicaid eligibility expansion is set at 90%, with the state providing the remainder of the funds needed for expansion; and

WHEREAS, funds currently reserved for the county medically indigent program and the catastrophic health care costs program have been identified as a potential source of funding for Medicaid eligibility expansion; and

WHEREAS, a study is necessary to determine:

(1) The impacts of Medicaid eligibility expansion on existing programs that serve medically indigent individuals;

(2) Options to reduce, phase out, or eliminate the county medically indigent program and the catastrophic health care costs program;

(3) The savings to each county and the state from reduction or elimination of each program;

(4) An equitable means to assess each county for its share of state funding for Medicaid eligibility expansion; and

(5) An effective means for the state to collect Medicaid eligibility expansion assessments from the counties.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Sixty-fifth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the Legislative Council is authorized to appoint a committee to undertake and complete a study and to make recommendations regarding the effects of Medicaid eligibility expansion on existing programs that serve medically indigent individuals and regarding related issues identified in this resolution. The Legislative Council shall determine the number of legislators and membership from each house appointed to the committee and shall authorize the committee to receive input, advice, and assistance from interested and affected parties who are not members of the Legislature.

BE IT FURTHER RESOLVED that the cochairs of the committee who are appointed by the Legislative Council shall appoint, as a nonvoting member of the committee, a person representing the Idaho Association of Counties.

BE IT FURTHER RESOLVED that other nonlegislative members of the committee may be appointed by the cochairs. Nonlegislative members of the committee shall not be reimbursed from legislative funds for per diem, mileage, or other expenses.

BE IT FURTHER RESOLVED that the committee shall report its findings, recommendations, and proposed legislation, if any, to the Second Regular Session of the Sixty-fifth Idaho Legislature.

SCR 117 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

On request by Senator Winder, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

March 25, 2019

The Honorable Janice McGeachin
President of the Senate
Idaho Legislature

Dear Madam President:

I have the honor to inform you that I have appointed Ray Mosman of Craigmont, Idaho, to be Acting State Senator for Legislative District 6, State of Idaho.

This appointment is effective March 27, 2019, and will expire at the end of the 2019 legislative session.

Sincerely,
/s/ Brad Little
Governor

THE OFFICE OF THE GOVERNOR
EXECUTIVE DEPARTMENT
BOISE, IDAHO
CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents, that pursuant to the provisions of Section 59-917, *Idaho Code*, Dan G. Johnson, State Senator, District 6, State of Idaho, has nominated Ray Mosman of Craigmont, Idaho, to perform the duties of this office temporarily as Acting State Senator, District 6.

NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me do hereby appoint Ray Mosman to the office of State Senator, District 6, State of Idaho, for a term commencing on March 27, 2019, through the end of the 2019 legislative session.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this Twenty-seventh day of March, in the year of our Lord two thousand and nineteen and of the Independence of the United States of America, the two hundred and forty-third year.

/s/ BY THE GOVERNOR BRAD LITTLE
/s/ SECRETARY OF STATE LAWRENCE DENNEY

The correspondence and Certificate of Appointment were ordered filed in the office of the Secretary of the Senate.

The President announced that the Oath of Office had been administered previously to Acting Senator Mosman, and he was recorded present at this order of business.

March 26, 2019

The Honorable Janice McGeachin
President of the Senate
Idaho Legislature

Dear Madam President:

I have the honor to inform you that I have signed today and am transmitting to the Secretary of State the following Senate Bill, to wit:

S 1140

Sincerely,
/s/ Brad Little
Governor of Idaho

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

Messages from the House

March 26, 2019

Dear Madam President:

I return herewith **S 1166**, **S 1187**, **S 1006**, **S 1138**, as amended, **SCR 107**, **SCR 108**, **SCR 109**, and **SJM 105**, which have passed the House.

MAULIN, Chief Clerk

S 1166, **S 1187**, **S 1006**, **S 1138**, as amended, **SCR 107**, **SCR 108**, **SCR 109**, and **SJM 105** were referred to the Judiciary and Rules Committee for enrolling.

March 26, 2019

Dear Madam President:

I return herewith **S 1178**, as amended, which has failed to pass the House.

MAULIN, Chief Clerk

S 1178, as amended, was ordered filed in the office of the Secretary of the Senate.

March 26, 2019

Dear Madam President:

I transmit herewith Enrolled **H 118**, as amended, as amended in the Senate, and **H 93**, as amended in the Senate, for the signature of the President.

MAULIN, Chief Clerk

The President signed Enrolled **H 118**, as amended, as amended in the Senate, and **H 93**, as amended in the Senate, and ordered them returned to the House.

March 26, 2019

Dear Madam President:

I return herewith Enrolled **S 1163**, **S 1185**, **S 1023**, **S 1091**, as amended, **S 1133**, **S 1131**, as amended, **S 1190**, **S 1191**, **S 1197**, **S 1198**, and **S 1192**, which have been signed by the Speaker.

MAULIN, Chief Clerk

Enrolled **S 1163**, **S 1185**, **S 1023**, **S 1091**, as amended, **S 1133**, **S 1131**, as amended, **S 1190**, **S 1191**, **S 1197**, **S 1198**, and **S 1192** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

On request by Senator Winder, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1206 and **S 1207**, by Finance Committee, were read the second time at length and filed for third reading.

H 217, as amended in the Senate, and **H 259**, as amended in the Senate, by Revenue and Taxation Committee, were read the second time at length and filed for third reading.

S 1113, as amended in the House, by State Affairs Committee, was read the second time at length and filed for third reading.

S 1057, as amended in the House, and **S 1060**, as amended, as amended in the House, by Education Committee, were read the second time at length and filed for third reading.

H 281, **H 282**, **H 283**, **H 284**, **H 285**, **H 286**, **H 287**, and **H 288**, by Appropriations Committee, were read the second time at length and filed for third reading.

H 275, by Ways and Means Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

H 139 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Anthon arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Agenbroad, Anthon, Bair, Bayer, Brackett, Burgoyne, Burtenshaw, Cheatham, Crabtree, Den Hartog, Grow, Guthrie, Harris, Heider, Hill, Lakey, Lee, Lent, Lodge, Martin, Mortimer, Mosman (Johnson), Nelson, Patrick, Rice, Souza, Stennett, Thayn, Vick, Ward-Engelking, Winder, Woodward. Total - 32.

NAYS—Jordan, McCoy (Buckner-Webb), Nye. Total - 3.

Total - 35.

Whereupon the President declared **H 139** passed, title was approved, and the bill ordered returned to the House.

H 193, as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lakey arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Agenbroad, Anthon, Bair, Bayer, Brackett, Burtenshaw, Cheatham, Crabtree, Den Hartog, Grow, Guthrie, Harris, Heider, Hill, Jordan, Lakey, Lee, Lent, Lodge, Martin, Mortimer, Mosman (Johnson), Nelson, Nye, Patrick, Rice, Souza, Thayn, Vick, Winder, Woodward. Total - 31.

NAYS—Burgoyne, McCoy (Buckner-Webb), Stennett, Ward-Engelking. Total - 4.

Total - 35.

Whereupon the President declared **H 193**, as amended, passed, title was approved, and the bill ordered returned to the House.

H 251 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Winder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Agenbroad, Anthon, Bair, Bayer, Burtenshaw, Cheatham, Crabtree, Den Hartog, Grow, Harris, Hill, Lakey, Lee, Lent, Lodge, Martin, Mortimer, Rice, Souza, Thayn, Vick, Ward-Engelking, Winder, Woodward. Total - 24.

NAYS—Brackett, Burgoyne, Guthrie, Heider, Jordan, McCoy (Buckner-Webb), Mosman (Johnson), Nelson, Nye, Patrick, Stennett. Total - 11.

Total - 35.

Whereupon the President declared **H 251** passed, title was approved, and the bill ordered returned to the House.

H 206 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Vick arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Agenbroad, Anthon, Bair, Bayer, Brackett, Burtenshaw, Cheatham, Crabtree, Den Hartog, Grow, Guthrie,

Harris, Heider, Hill, Lakey, Lee, Lent, Lodge, Martin, Mortimer, Mosman (Johnson), Patrick, Rice, Souza, Thayn, Vick, Winder, Woodward. Total - 28.

NAYS—Burgoyne, Jordan, McCoy (Buckner-Webb), Nelson, Nye, Stennett, Ward-Engelking. Total - 7.

Total - 35.

Whereupon the President declared **H 206** passed, title was approved, and the bill ordered returned to the House.

H 183 was read the third time at length, section by section, and placed before the Senate for final consideration. President Pro Tempore Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Agenbroad, Anthon, Bair, Bayer, Burgoyne, Burtenshaw, Cheatham, Crabtree, Den Hartog, Grow, Guthrie, Harris, Heider, Hill, Jordan, Lakey, Lee, Lent, Lodge, Martin, McCoy (Buckner-Webb), Mortimer, Nelson, Nye, Patrick, Rice, Souza, Stennett, Thayn, Vick, Ward-Engelking, Winder, Woodward. Total - 33.

NAYS—Brackett, Mosman (Johnson). Total - 2.

Total - 35.

Whereupon the President declared **H 183** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Vick, granted by unanimous consent, the Senate returned to the Fourth Order of Business.

Reading of Communications

On request by Senator Vick, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

On motion by Senator Vick, seconded by Senator Stennett, by voice vote the Senate recessed at 11:58 a.m. until the hour of 4 p.m. of this day.

RECESS AFTERNOON SESSION

The Senate reconvened at 4 p.m., pursuant to recess, President McGeachin presiding.

Roll call showed all members present except Senator Lakey, absent and formally excused by the Chair; and Senator Thayn, absent and excused.

Prior to recess the Senate was at the Fifth Order of Business, Petitions, Resolutions, and Memorials.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

March 27, 2019

The JUDICIARY AND RULES Committee reports that **SCR 117** has been correctly printed.

LAKEY, Chairman

SCR 117 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 27, 2019

The JUDICIARY AND RULES Committee reports that [S 1166](#), [S 1187](#), [S 1006](#), [S 1138](#), as amended, [SCR 107](#), [SCR 108](#), [SCR 109](#), and [SJM 105](#) have been correctly enrolled.

LAKEY, Chairman

The President signed Enrolled [S 1166](#), [S 1187](#), [S 1006](#), [S 1138](#), as amended, [SCR 107](#), [SCR 108](#), [SCR 109](#), and [SJM 105](#) and ordered them transmitted to the House for the signature of the Speaker.

March 27, 2019

The JUDICIARY AND RULES Committee reports that Enrolled [S 1163](#), [S 1185](#), [S 1023](#), [S 1091](#), as amended, [S 1133](#), [S 1131](#), as amended, [S 1190](#), [S 1191](#), [S 1197](#), [S 1198](#), and [S 1192](#) were delivered to the Office of the Governor at 1:30 p.m., March 27, 2019.

LAKEY, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

On request by Senator Winder, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

On request by Senator Harris, granted by unanimous consent, [H 162](#) was referred to the Resources and Environment Committee.

The President declared the Senate resolved into the Committee of the Whole and called Senator Vick to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President called the Senate to order.

Report of the Committee of the Whole

Senator Vick, Chairman of the Committee of the Whole, reported out [H 122](#), without recommendation, amended as follows:

SENATE AMENDMENT TO H 122

AMENDMENT TO SECTION 1

On page 1 of the printed bill, delete lines 18 through 39.

On page 2, delete lines 1 through 14, and insert:

"22-1702. LEGISLATIVE INTENT. (1) It is the policy of this state to allow and encourage the research and production of hemp in Idaho. The legislature finds that the Cannabis sativa L. plant used for the production of hemp is separate and distinct from the forms of cannabis used to produce marijuana. The federal agriculture improvement act of 2018, P.L. 115-334, has eliminated barriers at the federal level to hemp research and development. It is the policy of this state to immediately regulate the interstate transport of hemp. It is also the policy of this state that, through the negotiated rulemaking process, the director shall develop and submit by a date certain a state plan to the secretary of agriculture that allows for the production of hemp in Idaho to the greatest extent allowed in compliance with the agriculture improvement act of 2018.

(2) Hemp is used in products such as building materials, cordage, fiber, food, floor coverings, fuel, paint, animal feed, paper, particle board, plastics, seed meal, cosmetics, seed, and

yarn. The university of Idaho, in fulfillment of its land grant mission, leads the nation in many areas of agricultural research and is encouraged to research and study this burgeoning field. Hemp has the potential to be an alternate crop in Idaho's thriving agricultural economy. A growing hemp industry also has the potential to create jobs in production, processing, and research, and Idahoans will benefit from numerous consumer products made from hemp.

22-1703. DEFINITIONS. As used in this chapter:

(1) "Chief law enforcement officer" means the director of the Idaho state police.

(2) "Director" means the director of the Idaho state department of agriculture.

(3) "Hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis, as defined in the federal agriculture improvement act of 2018. It does not include any approved cannabidiol drugs listed on schedule V in section 37-2713, Idaho Code.

(4) "Person" means any individual, partnership, corporation, association, grower, farm, or any other business unit.

22-1704. INTERSTATE TRANSPORT. (1) No person shall move, convey, or transport hemp through the state without a permit issued by the director based on documentation from the equivalent foreign state authorizing body in compliance with the agriculture improvement act of 2018. Hemp is exempted from the provisions of chapter 27, title 37, Idaho Code, for the purpose of interstate transport when being moved, conveyed, or transported pursuant to a permit and in compliance with the agriculture improvement act of 2018.

(2) The director shall expeditiously promulgate rules, in consultation with the chief law enforcement officer, regulating the transport of hemp through the state. The director may assess fees for permits created in this chapter and civil penalties for violations of this chapter or any rules promulgated under this chapter.

(3) Any person transporting hemp through the state has the duty to keep and furnish upon request by the director or a peace officer any permits required by this chapter.

(4) Any hemp transported through the state must be free of pests as defined in chapter 20, title 22, Idaho Code.

(5) The chief law enforcement officer may establish check stations at ports of entry or other locations as established by rule as necessary to carry out the provisions of this chapter.

(6) No person shall proceed past or travel through any established check station at a port of entry or other location as established by rule during hours of operations when required by rule to stop for inspection while transporting hemp.

(7) The director or the chief law enforcement officer may issue hold orders to take prompt regulatory action on hemp transported through the state when either reasonably believes hemp is transported in violation of this chapter or the federal agriculture improvement act of 2018 or any rules promulgated thereunder. The hold order shall contain contact information, the reason for the hold order, and the conditions for release.

(8) It shall be the duty of all peace officers within the state, as defined by section 19-5101(d), Idaho Code, to enforce the provisions of this chapter by making a complaint or citation as described in section 19-3901, Idaho Code.

(9) A peace officer may inspect any vehicle transporting hemp presented at a check station at a port of entry or other location as established by rule or during lawful traffic enforcement contacts and collect reasonably sized samples selected by the peace officer for testing.

(10) If a peace officer has probable cause to believe that a person is transporting hemp without permits required in this chapter, the peace officer may seize and impound the hemp, provided however, if permits that were valid at the time of seizure and impoundment are subsequently furnished, the peace officer shall immediately release the hemp.

(11) Except when hemp is transported through this state in compliance with the permits required in this section, nothing in this section shall inhibit or restrict any peace officer from enforcing to the fullest extent the laws of this state prohibiting marijuana as provided in chapter 27, title 37, Idaho Code.

22-1705. STATE PLAN. (1) The director shall prepare a plan through negotiated rulemaking and submit the plan to the secretary of agriculture by November 1, 2019, or immediately upon the date after which the United States department of agriculture is ready to accept state plans, whichever is later. The plan shall be created through the negotiated rulemaking process, in consultation with the governor and the chief law enforcement officer of the state, and shall allow for the research and production of hemp in Idaho to the greatest extent allowed under federal law.

(2) As part of the state plan, the director, in consultation with the governor and the chief law enforcement officer of the state, shall prepare by rule and submit to the secretary of agriculture a corrective action plan consistent with the federal agriculture improvement act of 2018.

(3) If approved by the secretary of agriculture, the state plan and the corrective action plan will not take effect until enacted in Idaho Code.

22-1706. HEMP DEVELOPMENT FUND. There shall be established in the dedicated fund in the state treasury the hemp development fund to which shall be credited the revenues derived from fees and penalties collected as authorized by this chapter and the rules promulgated under this chapter. Moneys in the fund shall be used solely for carrying out the provisions of this chapter. The director is charged with the administration of moneys appropriated from the fund unless otherwise provided by law. All interest or other income accruing from moneys deposited to the fund shall be redeposited and accrue to the fund.

22-1707. EXCEPTIONS. Hemp shall not be subject to inspection or indemnification pursuant to chapter 51, title 22, Idaho Code, or chapter 2 or 5, title 69, Idaho Code."

AMENDMENT TO THE BILL

On page 2, delete lines 15 through 47.
Delete pages 3 through 15, and insert:

"SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval."

CORRECTION TO TITLE

On page 1, delete lines 3 through 9, and insert: "CHAPTER 17, TITLE 22, IDAHO CODE, TO PROVIDE FOR THE HEMP RESEARCH AND DEVELOPMENT ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO DEFINE TERMS, TO PROVIDE FOR INTERSTATE TRANSPORT, TO PROVIDE FOR A STATE PLAN, TO

PROVIDE FOR THE HEMP DEVELOPMENT FUND, AND TO PROVIDE EXCEPTIONS; AND DECLARING AN EMERGENCY."

The Committee also has [S 1204](#) under consideration, reports progress, and begs leave to sit again.

VICK, Chairman

On motion by Senator Vick, seconded by Senator Stennett, the report was adopted by voice vote.

[H 122](#), as amended in the Senate, was filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

On request by Senator Winder, granted by unanimous consent, the Senate returned to the Thirteenth Order of Business.

Third Reading of Bills

Motion to Suspend Rules

Moved by Senator Winder, seconded by Senator Stennett, that all rules of the Senate interfering with the immediate passage of [S 1206](#) be suspended; that the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days be dispensed with, this being a case of urgency, and that [S 1206](#) be read the third time at length, section by section, and be put upon its final passage. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES—Agenbroad, Anthon, Bair, Bayer, Brackett, Burgoyne, Burtenshaw, Cheatham, Crabtree, Den Hartog, Grow, Guthrie, Harris, Heider, Hill, Jordan, Lee, Lent, Lodge, Martin, McCoy (Buckner-Webb), Mortimer, Mosman (Johnson), Nelson, Nye, Patrick, Rice, Souza, Stennett, Vick, Ward-Engelking, Winder, Woodward. Total - 33.

NAYS—None.

Absent and excused—Lakey, Thayn. Total - 2.

Total - 35.

More than two-thirds having voted in the affirmative, the President declared the rules suspended.

[S 1206](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Burtenshaw arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senators Lee and Nye disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES—Agenbroad, Anthon, Bair, Bayer, Brackett, Burgoyne, Burtenshaw, Cheatham, Crabtree, Den Hartog, Grow, Guthrie, Harris, Heider, Hill, Jordan, Lee, Lent, Lodge, Martin, McCoy (Buckner-Webb), Mortimer, Mosman (Johnson), Nelson, Nye, Patrick, Rice, Souza, Stennett, Vick, Ward-Engelking, Winder, Woodward. Total - 33.

NAYS—None.

Absent and excused—Lakey, Thayn. Total - 2.

