



RS – 26439

Proposed Amendment to the Idaho Uniform Securities Act (2004)

Legislative Need - The proposed legislation is needed to adapt the statute to numbering changes in federal statute and to **retain authority** for the Department to maintain certain securities issuer filings and fees that were partially affected by federal preemption.

Federal Changes - The federal Jumpstart Our Business Startups Act (the JOBS Act) was passed in April 2012 and required the U.S. Securities & Exchange Commission (SEC) to write rules and issue studies on capital formation, disclosure, and registration requirements. Elements of the JOBS Act came in to effect in over the following four years.

Crowd Funding – The JOBS Act called for easier access to capital for small businesses through the uses of “crowd funding”. The SEC adopted final rules for crowd funding in October 2015.

Idaho has provided for in-state small issuer crowd funding activities since 2012 and no change is sought in connection with this legislative proposal.

“Regulation A” Issuer Filings - In March 2015, the SEC adopted new rules that updated and expanded Regulation A, an existing exemption from federal registration for smaller issuers of securities. The implementation of the new SEC rules preempted state regulators from any substantive review of Tier 2 issuer offering documents, while retaining state authority to require the filing of offering documents and the collection of filing fees as previously allowed.

The proposed statutory amendment will provide more direct authority for the Department to continue to require and accept those filings and fees associated with federal Regulation A Tier 2 offerings.

Private Placement Changes – Since the states and the SEC share regulatory authority, most states harmonize their statutes and regulations with the federal provisions. Idaho had adapted its law and regulations to recognize federal Regulation D offerings in Idaho by requiring issuer filings that are identical to those made with the SEC.

The proposed legislation is required to adapt the statute to numbering changes in federal laws and regulations.

Who will be affected without this change - Without the benefit of this statutory change, Idaho citizen investors will have less access to information regarding the affected classes of securities issuers and the Department will be unable to vet this class of issuers to identify statutorily disqualified persons attempting to offer and issue securities to Idaho residents. Issuers that may no longer need to make certain notice filings with the Department will effectively save \$50 per issuer filing (approximately 300 per year).

Fiscal impact of legislative idea - If the Department is unable to effect this statutory change, the Department estimates that approximately 300 issuer filings may be affected resulting in an estimated loss of revenue in an amount not greater than \$20,000. Failing to make this change may also deny Idahoans (and the Department) of ready access to information regarding said issuers.

*attachment 1
1/17/19*