

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Wednesday, February 18, 2026  
**TIME:** 3:00 P.M.  
**PLACE:** Room WW54  
**MEMBERS PRESENT:** Chair VanOrden, Vice Chair Bjerke, Senators Harris, Zuiderveld, Lenney, Shippy, Keyser, and Wintrow  
**ABSENT/ EXCUSED:** Senator Blaylock  
**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.  
**CONVENED:** **Chair VanOrden** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:09 p.m.

**H 494**                    **HEALTH AND WELFARE - Amends, repeals, and adds to existing law to establish provisions regarding background checks conducted by the Department of Health and Welfare.** **Representative Wheeler** explained this legislation codified administrative rules related to background checks, allowing for stronger legislative oversight. This bill was necessary to satisfy U.S. Federal Bureau of Investigation (FBI) requirements so that Idaho Department of Health and Welfare (IDHW) could continue to conduct background checks. In order for IDHW to conduct background checks utilizing the FBI's national database a statute was required as a result of legislative enactment. The statute needed to require fingerprinting of applicants and expressly or implicitly authorize the use of FBI records for screening applicants. **Representative Wheeler** requested the Committee send this bill to the 14th Order for possible amendment because concerns were raised regarding background checks in relation to sex offenders.

**DISCUSSION:** **Representative Wheeler** explained the proposed amendment unstruck language to maintain the current references to background checks for sex offenders in statute. **Senator Lenney** asked for the reasoning behind striking "FBI" in the amendment. **Jared Larsen**, Chief of staff, IDHW, clarified that "FBI" was inserted later on. He went on to explain IDHW did not submit background checks directly to the FBI, rather IDHW submitted them to the Idaho State Police (ISP), who then worked with the FBI to run background checks. IDHW did not have a direct relationship with the FBI. Therefore, the proposed amendment referenced the correct process for accessing FBI records through ISP. **Senator Lenney** clarified the reason for this bill was the FBI informing IDHW they could not use the FBI database unless there was an authorizing statute. **Mr. Larsen** explained this legislation aligned with the IDHW objective to move regulation from administrative rule to statute. The second reason for the legislation was IDHW received communication through ISP that the FBI required six items to maintain access to the FBI database. IDHW would need statutory authority as a result of legislative enactment to meet the first FBI requirement. He stated if this legislation was not enacted IDHW was told they may lose access to the FBI database. **Senator Lenney** asked what the fifth requirement, "not be against (federal) public policy," listed in the statement of purpose, meant. **Mr. Larsen** explained federal law stated that public policy could not be violated and access to the national database was granted at the discretion of the FBI. He stated IDHW was unsure what was meant by federal public policy.

**Senator Zuiderveld** asked what kind of contractor the legislation required to complete a background check. **Mr. Larsen** explained the legislation clearly defined individuals subject to background checks as required by the FBI. Not all licensees working with vulnerable individuals were employees, some were contracted by IDHW and subject to a background check. Only individuals expressly listed in the bill, under § 56-2504, were required to undergo a background check. **Senator Zuiderveld** asked if a grandparent would be required to complete a background check to adopt their grandchild. **Mr. Larsen** stated every adoption required a background check regardless of the foster parent's relationship to the foster child.

**Chair VanOrden** asked if the fifth requirement was language provided by the FBI. **Mr. Larsen** explained the language was provided by the FBI and clarified this legislation did not state that Idaho was adopting federal public policy. The purpose of the legislation was to clearly define the scope of who was subject to a background check, explicitly define who had access to sensitive background check results, and codify the requirement by legislative enactment as required by the FBI.

**Senator Shippy** clarified whether this legislation would not require additional personnel to undergo a background check, it simply codified the existing requirements in administrative rule to ensure IDHW had continued access to the FBI database. **Mr. Larsen** stated that was correct.

In closing, **Representative Wheeler** emphasized this legislation did not add any new requirements, it only moved administrative rule to statute ensuring IDHW met FBI requirements to utilize the national database.

**MOTION:** **Senator Harris** moved to send **H 494** to the 14th Order of Business for possible amendment. **Vice Chair Bjerke** seconded the motion.

**DISCUSSION:** **Senator Lenney** stated it was unusual for the FBI to impose requirements on an Idaho agency and expressed concern about the requirement to comply with federal public policy. Although he did not want IDHW to lose access to the FBI database, the vague requirements outlined by the FBI for maintaining access caused him apprehension. He explained it may be best to hold **H 494** in Committee to gather more information.

**Senator Zuiderveld** asserted that inviting the federal government to dictate such matters would undermine Idaho's state sovereignty and, for that reason, she would not support the motion.

**SUBSTITUTE MOTION:** **Senator Lenney** moved to hold **H 494** in Committee subject to the call of the Chair. **Senator Zuiderveld** seconded the motion.

**DISCUSSION:** **Vice Chair Bjerke** acknowledged the comments made regarding state sovereignty. He explained the federal database was required because we had a free country which allowed individuals to move freely from state to state. When individuals came to Idaho, ISP may not have criminal history information if the crime occurred outside of Idaho. For those reasons, it was important to maintain access to the FBI database and he would support the original motion.

**Senator Harris** asked what would occur if **H 494** did not pass. **Mr. Larsen** explained IDHW would continue to rely on administrative rules and risked losing access to the FBI database. He noted that the FBI warned IDHW they may revoke access for failing to enact legislation that clearly defined who was required to complete a background check and who had access to background check information. **Senator Harris** referenced his experience serving on a hospital board and explained this legislation codified that individuals in skilled nursing facilities and intermediate care facilities must undergo background checks. He indicated that failing to codify these requirements would jeopardize safety in nursing homes.

**Senator Shippy** stated there were references in code that required background checks, for example it was required for the licensure of foster parents. He asked if this legislation did not pass and the FBI denied access to IDHW, whether individuals would be unable to satisfy statutory requirements. **Mr. Larsen** stated he was correct. IDHW would be unable to follow statutory requirements if IDHW was unable to access the national database and run background checks.

**Senator Shippy** asked if it was practical for Idaho to set up its own background check system. **Mr. Larsen** stated ISP had a database of crimes in Idaho. However, it would probably be impossible to recreate the national database and cost-prohibitive.

**Senator Keyser** stated it was important for personnel to undergo background checks to ensure public safety. He believed federal policy should not dictate Idaho policy and it would be prudent to get more information on the fifth FBI requirement. Therefore, he was in favor of holding **H 494** in Committee to ensure IDHW could continue to run background checks through the FBI database.

**Vice Chair Bjerke** stated based on his experience, the FBI was likely referring to public policy related to how the background check information was used. He maintained that he would support the original motion.

**ROLL CALL VOTE:** **Senator Lenney** requested a roll call vote on the substitute motion to hold **H 494** in Committee subject to the call of the Chair. **Senators Zuiderveld, Lenney, and Keyser** voted aye. **Senators Harris, Shippy, Wintrow, Vice Chair Bjerke, and Chair VanOrden** voted nay. The motion failed.

**VOICE VOTE:** The original motion to send **H 494** to the 14th Order of Business for possible amendment carried by **voice vote**. **Senator Zuiderveld** requested to be recorded as voting nay.

**H 526** **COTTAGE FOOD OPERATIONS - Adds to existing law to provide that certain cottage food operations may sell TCS foods.** **Representative Ehlers** explained this legislation removed barriers for entrepreneurs starting a food business. The current requirements for a new business to sell any time/temperature controlled foods were burdensome. This legislation would allow small sellers (under \$5,000) to begin selling these types of foods. (See Attachment #1)

**DISCUSSION:** **Senator Shippy** clarified that this bill was putting trust in Idahoans to think for themselves and their food safety. **Representative Ehlers** confirmed the purpose was to let the consumer make their own choice.

**Senator Wintrow** stated there were safety issues with temperature-controlled foods. She asked how the limit of \$5,000 was chosen and how limiting profit margins would influence public safety. She asserted there was still a safety concern for temperature controlled food regardless of a small business's profit. **Representative Ehlers** explained no one was being forced to purchase these products. This legislation simply left the choice with the consumer. He indicated safety risks persisted in many settings regardless of regulation. This legislation enabled small entrepreneurs to sell their goods at farmer's markets directly to the consumer.

**TESTIMONY:** **Elizabeth Criner**, representing Food Northwest, testified in opposition to **H 526**. She expressed support for food entrepreneurs and the broader concept of expanding cottage food opportunities, however, this legislation raised food safety concerns. Time and temperature-controlled foods required proper training and understanding to ensure safe preparation and to eliminate harmful bacteria. She emphasized that food preparation could still occur in home kitchens, but recommended training requirements and clear safety standards rather than eliminating safeguards. She also highlighted potential allergen and contamination risks in home kitchens, including exposure to pet dander if proper controls were not maintained. **Ms. Criner** explained this legislation amended code related to shelf-stable foods, not time/temperature-controlled products. The bill did not require a permanent label on the food product, only that a label, card, or placard be available at the point of sale. Due to the greater risk of foodborne illness associated with time/temperature-controlled foods, she urged stronger parameters and safety requirements before advancing the bill.

**DISCUSSION:** **Senator Shippy** questioned whether individuals were willing to purchase and consume a properly-labeled product despite the potential risks, would it not be prudent to allow individuals the freedom to make that decision. **Ms. Criner** stated existing label requirements were minimal, did not require a permanent label, and did not require that ingredients were listed. These requirements were originally designed for shelf-stable foods such as cookies and bread, which presented a lower risk of bacterial growth and foodborne illness. She noted that consumers generally assumed food products offered for sale were safe, underscoring the importance of adequate safeguards.

**Senator Wintrow** asked if Ms. Criner's position would change if there were training or certification requirements specifically related to allergens and temperature-controls. **Ms. Criner** stated many states implemented standards for preparing and selling time/temperature-controlled foods to ensure safe handling of perishable products. Standards confirmed that individuals preparing these foods possessed the necessary knowledge and competency. She also raised concerns regarding whether small operators understood the need for liability protection or insurance. She maintained that the proposed approach lacked clear parameters to ensure food safety competency or sound business practices.

**TESTIMONY:** **Michael Kane**, Association of Health District Directors, explained there were shelf-stable foods and time/temperature-controlled foods that were moist and could harbor bacteria if mishandled. Improper handling of perishable foods could lead to serious illnesses, including salmonella, E. coli, shigella spp, listeria monocytogenes, campylobacter, norovirus, hepatitis A, toxoplasma gondii, and giardia. Shelf-stable foods had established rules, but time/temperature controlled foods lacked specific rules or training requirements from IDHW. **Mr. Kane** emphasized that the absence of safety rules and training created serious risk, as even a small number of irresponsible operators could make people sick. Overall, the districts expressed grave concern about proceeding without clear regulations or safeguards for perishable foods.

**Russ Duke**, Director of Central District Health, explained Idaho's public health districts were independent agencies focused on education and worked with the retail food industry to ensure safe sourcing, handling, and distribution of food. He stated dollar limits did not affect food safety, and labeling, while helpful, was not sufficient to ensure safety for time/temperature controlled foods. Idaho experienced approximately 50 confirmed foodborne outbreaks and around 1,000 suspected outbreaks over the past five years, demonstrating the ongoing risk even under current regulations. **Mr. Duke** concluded that allowing cottage food production of perishable, time/temperature controlled foods presented a statewide public health challenge and required careful oversight.

**DISCUSSION:** In closing, **Representative Ehlers** clarified **H 526** extended existing cottage food rules—including labeling, allergen disclosure, and safety requirements—to additional foods beyond shelf-stable items. Participation was voluntary for consumers, and products were clearly labeled. He emphasized that regulation reduced but did not eliminate risk, noting that even commercial food establishments had violations. The bill was intended to provide a limited, low-risk pathway for small entrepreneurs to test their business before investing in a commercial kitchen and meeting full regulatory requirements. The aim was to support small food businesses while maintaining the safety framework already established for cottage foods.

**Senator Harris** asked who was liable if a consumer contracted an illness from cottage food. **Representative Ehlers** stated it would be the same for any cottage foods currently sold at farmer's markets, this legislation did not change liability. He explained it was up to the small entrepreneur to insure themselves.

**Senator Keyser** stated this bill was fighting for small businesses. He appreciated the intent to support small producers instead of perpetuating overreaching government regulation.

**MOTION:** **Senator Keyser** moved to send **H 526** to the floor with a **do pass** recommendation. **Senator Shippy** seconded the motion.

**DISCUSSION:** **Senator Wintrow** respected the intention of the bill. However, she highlighted safety concerns and stated the labeling requirements needed to be stricter.

**Senator Shippy** stated this legislation was a productive step. He mentioned this bill addressed his biggest concerns which were labeling and ensuring there was not consumer deception. This was a prudent step for the State of Idaho and gave individuals liberty to make transactions, as long as there was not fraud or deception.

**Senator Lenney** explained Idaho should trust small business without imposing regulatory burdens. He stated he would support the motion.

**Senator Zuiderveld** asserted there were risks in everything and government intervention could not mitigate every risk.

**VOICE VOTE:** The motion to send **H 526** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Wintrow** requested to be recorded as voting nay.

**ADJOURNED:** There being no further business at this time, **Chair VanOrden** adjourned the meeting at 4:05 p.m.

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Senator VanOrden  
Chair

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Madyson Crea  
Secretary