

## Idaho Code § 56-1101

## LEXSTAT ID CODE 56-1101

## IDAHO CODE STATUTES ANNOTATED

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\*\*\* Statutes Current through the 2007 Regular Session \*\*\*

\*\*\* Annotations current through April 5, 2007 \*\*\*

## GENERAL LAWS

## TITLE 56. PUBLIC ASSISTANCE AND WELFARE

## CHAPTER 11. IDAHO FAMILY ASSET BUILDING INITIATIVE

**Go to the Idaho Code Archive Directory***Idaho Code § 56-1101 (2007)*

## § 56-1101. Definitions

As used in this chapter, unless the context requires otherwise:

(1) "Account holder" means a member of a low-income household who is the named depositor of an individual development account.

(2) "Board" means the individual development account advisory board as established pursuant to the provisions of this chapter.

(3) "Fiduciary organization" means a nonprofit, fundraising organization that is exempt from taxation under *section 501(c)(3) of the Internal Revenue Code*, approved by the state, including any Indian tribe as defined in section 4(12) of the native American housing assistance and self-determination act of 1996 (*25 U.S.C. section 4103(12)*) and any tribal subsidiary, subdivision, or other wholly owned tribal entity.

(4) "Financial institution" means any state bank, national bank, savings bank, savings and loan association, credit union, insurance company, brokerage firm or other similar entity that insures the deposits of its investors and is authorized to do business in this state.

(5) "Individual development account" means a contract between an account holder and a fiduciary organization, for the deposit of funds into a financial institution by the account holder, and the deposit of matching funds into the financial institution by the fiduciary organization from private and public contributions made to the fiduciary organization for such purpose, to allow the account holder to accumulate assets for use toward achieving a specific purpose approved by the fiduciary organization.

(6) "Low-income household" means a single person or family whose adjusted annual income is less than two hundred percent (200%) of the annual federal poverty guideline.

**HISTORY:** I.C., § 56-1101, as added by 2002, ch. 149, § 1, p. 435.

**NOTES:**

COMPILER'S NOTES. *Section 501(c)(3) of the Internal Revenue Code*, referred to in this section, appears as *26 U.S.C. § 501(c)(3)*.

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*Idaho Code § 56-1102 (2007)*

§ 56-1102. Legislative findings

The legislature finds that:

- (1) The problem of poverty will not be solved solely by government programs and income subsidies.
- (2) It is in the best interest of all Idahoans to structure incentives in a way that will result in a greater likelihood that low-income and working-poor individuals will attain self-sufficiency.
- (3) It is in the best interest of all Idahoans to encourage low-income individuals, neighborhoods and communities to benefit from the developments achieved through the growth in assets and investments.
- (4) Achieving self-sufficiency and assessing economic opportunity for low-income and working-poor individuals can be addressed through public policy that invests in asset accumulation and is supported by private sector philanthropy.
- (5) Providing a structured savings situation for low-income and working-poor individuals enhances their chances of fulfilling major life goals and opportunities and incorporates them into the economic mainstream.
- (6) The state has an opportunity to take advantage of private and public resources by making the transition to an asset-based antipoverty strategy. Those resources include, but are not limited to, the assets for independence act (42 U.S.C. section 604) and the workforce investment act (P.L. 105-220).
- (7) Investment through an individual development account program will help lower-income households obtain the assets they need to succeed. Communities and this state will experience resultant economic and social benefits accruing from the promotion of job training and higher education, home ownership and small business development.
- (8) It is desirable for this state to enact legislation that enables an authorized fiduciary organization sufficient flexibility to receive private, state and federal moneys for individual development accounts. The legislature should periodically review the provisions of this chapter to ensure that this state maximizes the receipt of available federal moneys for individual development accounts.

**HISTORY:** I.C., § 56-1102, as added by 2002, ch. 149, § 1, p. 435.

**NOTES:**

COMPILER'S NOTES. The federal Workforce Investment Act, referred to in this section, appears as *20 U.S.C. § 9201 et seq.*

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*Idaho Code § 56-1103 (2007)*

§ 56-1103. Persons qualifying as account holders

(1) A person who qualifies to become an account holder may enter into an agreement with a fiduciary organization for the establishment of an individual development account.

(2) A person is qualified to become an account holder if the person is a member of a low-income household.

(3) A person applying to establish an account must enroll in a personal development plan developed by the person and the fiduciary organization. The plan must provide the person with financial training and counseling, career or business planning and other services designed to increase the independence of the person and the person's household through achievement of the account's approved purpose.

**HISTORY:** I.C., § 56-1103, as added by 2002, ch. 149, § 1, p. 435.

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*Idaho Code § 56-1104 (2007)*

§ 56-1104. Approved purpose of account -- Emergency withdrawal -- Removal of account holder from program

(1) A person may establish an individual development account only for a purpose approved by a fiduciary organization. Disbursements from an account for an approved purpose shall be made directly by the fiduciary organization on behalf of the account holder but in no event shall the fiduciary organization make a disbursement for an approved purpose directly to the account holder. Purposes that the fiduciary organization may approve are:

(a) Educational costs for any family member eighteen (18) years of age or older, at an accredited institution of postsecondary education.

(b) The purchase of a primary residence. In addition to payment on the purchase price of the residence, account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs. The account holder must not have owned or held any interest in a residence during the three (3) years prior to making the purchase. However, this three (3) year period shall not apply to displaced homemakers or other individuals who have lost home ownership as a result of divorce.

(c) The capitalization of a small business. Account moneys may be used for capital, plant, equipment and inventory expenses or for working capital pursuant to a business plan. The business plan must have been developed through a financial institution, nonprofit microenterprise program or other qualified agent demonstrating business expertise and have been approved by the fiduciary organization. The business plan must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

(2) (a) If an emergency occurs, an account holder may withdraw all or part of the account holder's deposits to an individual development account for a purpose not described in subsection (1) of this section. As used in this paragraph, an approved emergency includes making payments for necessary medical expenses, to avoid eviction of the account holder from the account holder's residence and for necessary living expenses following a loss of employment.

(b) The account holder must reimburse the account for the amount withdrawn under this subsection within twelve (12) months after the date of the withdrawal. Failure of an account holder to make a timely reimbursement to the account is grounds for removing the account holder from the individual development account program. Until the reimbursement has been made in full, an account holder shall not be approved for matching funds or accrued interest on matching funds.

(3) If an account holder withdraws, or directs the withdrawal, of moneys from an individual development account for other than an approved purpose, the fiduciary organization may remove the account holder from the program.

(4) If an account holder moves from the area where the program is conducted or is otherwise unable to continue in the program, the fiduciary organization may remove the account holder from the program.

## Idaho Code § 56-1104

(5) If an account holder is removed from the program under subsection (2), (3) or (4) of this section, the account holder shall retain moneys he or she deposited in the account, including interest earned. In the event of the death of the account holder, moneys deposited in the account by the account holder and interest earned on those deposits shall be distributed to the designated beneficiary of the account and, if there is none, then according to the laws of the state of Idaho as moneys of the estate of the account holder. If the account holder is removed from the program or in the event of the account holder's death, all matching deposits in the account and all interest earned on matching deposits shall revert to the fiduciary organization. The fiduciary organization shall use the reverted funds as a source of matching deposits for other accounts.

**HISTORY:** I.C., § 56-1104, as added by 2002, ch. 149, § 1, p. 435.

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*Idaho Code § 56-1105 (2007)*

§ 56-1105. Required account features -- Matching moneys

(1) The fiduciary organization shall structure the accounts to have the following features:

(a) The fiduciary organization matches amounts deposited by the account holder according to a formula established by the fiduciary organization. The fiduciary organization shall deposit not less than one dollar (\$ 1.00) nor more than five dollars (\$ 5.00) into the account for each one dollar (\$ 1.00) deposited by the account holder.

(b) The matching deposits by the fiduciary organization to the individual development account are placed in a savings account that is controlled by the fiduciary organization and held separately from the savings account of the account holder.

(2) Deposits by a fiduciary organization to an account shall not exceed three thousand dollars (\$ 3,000) in any twelve (12) month period.

(3) The total amount paid into an individual development account during its existence, including amounts from deposits, matching deposits and interest or investment earnings, may not exceed twenty thousand dollars (\$ 20,000).

(4) Nothing in this chapter shall be construed to create an entitlement to matching moneys. The number of individuals who may receive disbursement of matching philanthropic moneys by sponsoring organizations pursuant to the provisions of this chapter shall necessarily be limited by the amount of philanthropic moneys available in any given year for such purpose.

**HISTORY:** I.C., § 56-1105, as added by 2002, ch. 149, § 1, p. 435.

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*Idaho Code § 56-1106 (2007)*

§ 56-1106. Individual development account advisory board -- Powers and duties

There is hereby created the individual development account advisory board. The board shall consist of the administrator of the division of financial management or his designee who shall serve as chair, the director of the department of finance or designee, the director of the department of health and welfare or designee, the director of the department of commerce or designee, the chairman of the Idaho state tax commission or designee, and the superintendent of public instruction or designee. A quorum shall be necessary to transact business. Members of the board shall be compensated by their appointing entity. The individual development account board shall:

(1) Develop and administer the individual development account program in a manner consistent with this chapter through the adoption of guidelines and procedures, and rules adopted in compliance with chapter 52, title 67, Idaho Code;

(2) Retain professional services, if necessary, including accountants, auditors, consultants and other experts;

(3) Seek rulings and other guidance, as necessary, from the United States department of the treasury, the internal revenue service and the state tax commission relating to the program;

(4) Make changes to the program required for the participants in the program to obtain the federal income tax benefits or treatment provided by *section 529 of the Internal Revenue Code of 1986*, as amended.

(5) Interpret, in rules, policies, guidelines and procedures, the provisions of this chapter broadly in light of its purpose and objectives; and

(6) Approve fiduciary organizations to implement the individual development account program and administer moneys for individual development account purposes. In making the selections, the board shall consider factors including, but not limited to:

(a) The ability of the fiduciary organization to implement and administer the individual development account program, including the ability to verify account holder eligibility, certify that matching deposits are used only for approved purposes and exercise general fiscal accountability;

(b) The capacity of the fiduciary organization to provide or raise matching funds for the deposits of account holders;

(c) The capacity of the fiduciary organization to provide financial counseling and other related services to account holders;

Idaho Code § 56-1106

(d) The links that the fiduciary organization has to other activities and programs designed to increase the independence of this state's lower-income households through education and training, home ownership and small business development; and

(e) The ability to meet criteria established by the federal government relating to individual development account programs.

**HISTORY:** I.C., § 56-1106, as added by 2002, ch. 149, § 1, p. 435.

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*Idaho Code § 56-1107 (2007)*

§ 56-1107. Fiduciary organizations -- Authority and duties

(1) Subject to rules of the individual development account advisory board, a fiduciary organization has sole authority over, and responsibility for, the administration of individual development accounts. The responsibility of the fiduciary organization extends to all aspects of the account program, including marketing to participants, soliciting matching contributions, counseling account holders, providing financial training, and conducting required verification and compliance activities. The fiduciary organization may establish program provisions as the organization believes necessary to ensure account holder compliance with the provisions of this chapter.

(2) A fiduciary organization may act in partnership with other entities, including businesses, government agencies, nonprofit organizations, community development corporations, community action programs, housing authorities and congregations to assist in the fulfillment of fiduciary organization responsibilities under this chapter.

(3) A fiduciary organization may use a reasonable portion of moneys allocated to the individual development account program for administration, operation and evaluation purposes.

(4) A fiduciary organization selected to administer moneys for individual development account purposes or to receive tax deductible contributions shall provide the board with an annual report of the fiduciary organization's individual development account program activity. The report shall be filed no later than ninety (90) days after the end of the fiscal year of the fiduciary organization, or November 1 of each year, whichever occurs first. The report shall include, but not be limited to, the following information for the preceding year:

- (a) The number of individual development accounts administered by the fiduciary organization;
- (b) The amount of deposits and matching deposits for each account;
- (c) The purpose of each account;
- (d) The amount of withdrawals made for approved purposes, and the amount of withdrawals made for nonapproved purposes;
- (e) The determination of whether certain donors are corporations; and
- (f) Any other information the board may require for the purpose of making a return on investment analysis.

**HISTORY:** I.C., § 56-1107, as added by 2002, ch. 149, § 1, p. 435.

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*Idaho Code § 56-1108 (2007)*

§ 56-1108. Public assistance -- Eligibility determination

Moneys in an individual development account established pursuant to the provisions of this chapter, or moneys withdrawn from an individual development account on behalf of an account holder for an approved purpose, shall not be counted as an asset of the account holder for the purpose of eligibility determination for any public assistance offered by the state of Idaho or a political subdivision of the state of Idaho.

**HISTORY:** I.C., § 56-1108, as added by 2002, ch. 149, § 1, p. 435.

# SENATE BILL NO. 1103

View [Bill Status](#)

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Text to be added within a bill has been marked with Bold and Underline. Text to be removed has been marked with Strikethrough and Italic. How these codes are actually displayed will vary based on the browser software you are using.

**This sentence is marked with bold and underline to show added text.**

*~~This sentence is marked with strikethrough and italic, indicating text to be removed.~~*

## Bill Status

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S1103.....by HEALTH AND WELFARE  
PUBLIC ASSISTANCE - Amends existing law relating to public assistance law

to reference a transfer of assets specifically permitted by department rule; to delete language referencing a transfer between spouses or to another for the benefit of a spouse.

02/08 Senate intro - 1st rdg - to printing

02/09 Rpt prt - to Health/Wel

02/16 Rpt out - rec d/p - to 2nd rdg

02/19 2nd rdg - to 3rd rdg

02/22 3rd rdg - PASSED - 32-0-3

AYES -- Bair, Bastian, Bilyeu, Broadsword, Burkett, Cameron, Coiner,

Corder, Darrington, Davis, Fulcher, Gannon, Geddes, Goedde, Hammond,

Heinrich, Hill, Jorgenson, Kelly, Keough, Langhorst, Lodge, Malepeai,

McGee, McKague, McKenzie, Richardson, Schroeder, Siddoway, Stegner,

Stennett, Werk

NAYS -- None

Absent and excused -- Andreason, Little, Pearce

Floor Sponsor - Bair

Title apvd - to House

02/23 House intro - 1st rdg - to Health/Wel

03/09 Rpt out - ref'd to St Aff

03/13 Rpt out - rec d/p - to 2nd rdg

03/14 2nd rdg - to 3rd rdg

03/19 3rd rdg - PASSED - 64-0-6

AYES -- Anderson, Andrus, Barrett, Bayer, Bedke, Bilbao, Black, Block, Bock, Boe, Bolz, Brackett, Bradford, Chadderdon, Chew,

Clark,

Collins, Crane, Durst, Edmunson, Eskridge, Hagedorn, Hart, Henbest,

Henderson, Jaquet, Killen, King, Kren, Labrador, Lake, LeFavour,  
Loertscher, Luker, Marriott, Mathews, McGeachin, Mortimer,  
Nielsen,  
Nonini, Pasley-Stuart, Patrick, Pence, Raybould, Ring, Ringo,  
Ruchti,  
Rusche, Sayler, Schaefer, Shepherd(2), Shepherd(8), Shirley,  
Shively,  
Smith(30), Smith(24), Snodgrass, Stevenson, Thayn, Trail, Vander  
Woude, Wills, Wood(27), Wood(35)  
NAYS -- None  
Absent and excused -- Bell, Chavez, Harwood, Moyle, Roberts, Mr.  
Speaker  
Floor Sponsor - Rusche  
Title apvd - to Senate  
03/20 To enrol  
03/21 Rpt enrol - Pres signed - Sp signed  
03/22 To Governor  
03/28 Governor signed  
Session Law Chapter 248  
Effective: 01/01/07

## Bill Text

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]]]] LEGISLATURE OF THE STATE OF IDAHO ]]]]  
Fifty-ninth Legislature First Regular Session - 2007

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IN THE SENATE

SENATE BILL NO. 1103

BY HEALTH AND WELFARE COMMITTEE

1 AN ACT  
2 RELATING TO PUBLIC ASSISTANCE LAW; AMENDING SECTION 56-214,  
IDAHO CODE, TO  
3 REFERENCE A TRANSFER OF ASSETS SPECIFICALLY PERMITTED BY  
DEPARTMENT RULE  
4 AND TO DELETE LANGUAGE REFERENCING A TRANSFER BETWEEN  
SPOUSES OR TO  
5 ANOTHER FOR THE BENEFIT OF A SPOUSE; DECLARING AN EMERGENCY  
AND PROVIDING  
6 RETROACTIVE APPLICATION.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 56-214, Idaho Code, be, and the  
same is hereby  
9 amended to read as follows:

10 56-214. AWARD OF PUBLIC ASSISTANCE -- INELIGIBILITY  
UPON TRANSFER OF  
11 PROPERTY. Upon the completion of the investigation, the state  
department shall

12 determine whether the applicant is eligible for public  
assistance under the  
13 provisions of this act, the type and amount of public  
assistance he shall  
14 receive, and the date upon which such public assistance shall  
begin. Public  
15 assistance shall be paid in the manner prescribed by the state  
department.

16 (1) Assistance to families with children shall not be  
granted under this  
17 act to any person who within six (6) months prior to applying  
for or at any  
18 time during which such assistance is received, has either made  
an assignment  
19 or transfer of property for the purpose of rendering himself  
eligible for  
20 assistance under this act, or who has divested himself of  
any interest in  
21 property without adequate consideration which interest or  
proceeds therefrom  
22 could reasonably be expected to contribute to the support and  
maintenance of  
23 such person and his family, except that any person who is  
ineligible for pub-  
24 lic assistance due solely to such assignment or transfer shall  
become eligible  
25 provided:

26 (a) There is a showing that such person has caused such  
property to be  
27 assigned or transferred back to him; or  
28 (b) There is a showing that the person to whom such  
property is assigned  
29 or transferred has, subsequent to such assignment or  
transfer, met subsis-  
30 tence and medical care costs exclusive of any obligation  
for support, of  
31 such person or family, according to the department's  
assistance standard,  
32 equal to, or in excess of, the market value of the property  
so assigned or  
33 transferred; or  
34 (c) There is a showing that the subsistence and medical  
care costs of  
35 such person, according to the department's assistance  
standard, subsequent  
36 to such assignment or transfer, equal or exceed the market  
value of the  
37 property so assigned or transferred.

38 (2) Eligibility for old age assistance under section 56-  
207, Idaho Code,  
39 or aid to the blind under section 56-208, Idaho Code, or aid to  
the disabled  
40 under section 56-209a, Idaho Code, shall be determined by  
continuing to con-  
41 sider as available any resource that was transferred prior to  
July 1, 1988,

42 until such resource is fully accounted for under the  
provisions of section  
43 1613(c) of the social security act as such section read on June  
30, 1988.

2

1 (3) Eligibility for medical assistance under section 56-  
209b, Idaho Code,  
2 shall continue to apply the rules of the director of the  
department of health  
3 and welfare concerning transfer of property as such rules read  
on October 29,  
4 1988, to transfers that occur prior to July 1, 1989, to persons  
other than to  
5 the spouse of the person receiving or applying for medical  
assistance, and to  
6 interspousal transfers that occur prior to October 1, 1989.  
7 (4) The provisions of section 1917(c) of the social  
security act as  
8 amended by public law 100-360 and further amended by public law  
100-485 and as  
9 hereafter amended shall apply as of July 1, 1989, to transfers  
of assets other  
10 than to the spouse, and as of October 1, 1989, to transfers  
between spouses,  
11 except that such provisions shall not apply either to transfers  
that occurred  
12 before July 1, 1988, or to transfers that have been fully  
accounted for under  
13 subsection (3) of this section. Notwithstanding the foregoing,  
any transfer of  
14 assets not otherwise specifically permitted by federal law  
**or rule of the**  
15 **department**, whether or not for fair market value including, but  
not limited  
16 to, a transfer in the form of an annuity, ~~between spouses or~~  
~~to another for~~  
17 ~~the benefit of a spouse~~, is presumed to be for the purpose  
of sheltering  
18 assets to qualify for medical assistance. Such assets  
transferred shall be  
19 counted as available in determining eligibility, and will  
subject the appli-  
20 cant to penalties prescribed by the director, unless the  
applicant for assis-  
21 tance can demonstrate by clear and convincing evidence that the  
transfer was  
22 intended for another purpose.  
23 (5) Any funds, securities, accounts, contracts and all  
other property  
24 held in or transferred to a special needs trust as provided in  
chapter 14,  
25 title 68, Idaho Code, section 15-5-409, Idaho Code, and  
section 15-5-409a,  
26 Idaho Code, shall not be considered by the state department  
in determining

27 whether the applicant is eligible for public assistance under  
the provisions

28 of this act, so long as the action is permitted under the  
provisions of sec-

29 tion 1917(c) and (d) of the social security act, as amended.

30 (6) If any provision of this section or the application  
thereof to any

31 person or circumstance is held invalid, such invalidity shall  
not affect other

32 provisions or applications of the section that can be given  
effect without the

33 invalid provisions or applications, and to this end the  
provisions of this

34 section are severable.

35 SECTION 2. An emergency existing therefor, which  
emergency is hereby

36 declared to exist, this act shall be in full force and effect on  
and after its

37 passage and approval, and retroactively to January 1, 2007.

## Statement of Purpose / Fiscal Impact

### STATEMENT OF PURPOSE

RS 16847

This bill brings Idaho law into compliance with federal Medicaid law and especially with the provisions of the Deficit Reduction Act, effective February 8, 2006, as specifically set forth in 42 U.S.C. 1396pp(c)(F) and (G), and therefore will allow Medicaid to promulgate regulations which are in compliance with the federal law. This area will be the subject of continued negotiated rule making.

### FISCAL NOTE

This bill will have no fiscal impact.

### CONTACT:

Name: Robert L. Aldridge, Trust & Estate Professionals of  
Idaho, Inc.

Telephone: office: (208) 336-9880 Cell: (208) 631-2481

# Senate Health & Welfare Committee

Minutes  
2007



inspections.

**Mr. Fred Lawson**, County Commissioner on the Central District Health Board, spoke in favor of **S 1096**.

**Vice Chairman Broadsword** provided statistical information in support of this legislation.

**MOTION:** **Senator Bair** moved to send **S 1096** to the Senate floor with a do pass recommendation. **Senator Werk** seconded, and the motion passed by unanimous voice vote.

**S 1102:** **Relating to the Long-Term Care Partnership Program**

**Mr. Robert Aldridge**, Attorney, Trust and Estate Professionals of Idaho, Inc., gave the rationale for **S 1102**. He stated that this legislation brings the statute in compliance with the Federal statute and allows them to proceed with negotiated rule making in this area. **Mr. Aldridge** clarified a question from **Vice Chairman Broadsword** regarding the long-term care benefits and personal assets.

A representative from the Bureau of Financial Operations spoke about the process in place for payments of long-term care benefits. They are coordinating that information with the Attorney General's Office. **Senator Darrington** asked him for clarification about the payment of benefits and asset protection for heirs of the estate as it affects eligibility for Medicaid.

**MOTION:** **Senator Hammond** moved to send **S 1102** to the Senate floor with a do pass recommendation. **Senator McGee** seconded, and the motion passed by unanimous voice vote.

**S 1103:** **Relating to Public Assistance Law**

**Mr. Aldridge** presented the rationale for **S 1103**, which brings Idaho law into compliance with the federal Medicaid law and with the provisions of the Deficit Reduction Act. This area will be the subject of continued negotiated rule making.

**Senator Darrington** asked **Mr. Aldridge** to clarify prior legislation and the effect on the 2006 legislation for rules relating to eligibility for Medicaid. **Mr. Aldridge** also provided clarification on the rules for **Senator Werk** and **Vice Chairman Broadsword**. In response to a question from **Senator Hammond**, **Mr. Aldridge** explained how assets can be sheltered.

**MOTION:** **Senator McGee** moved to send **S 1103** to the Senate floor with a do pass recommendation. **Vice Chairman Broadsword** asked if there would be any testimony against **S 1103**. There being none, **Senator Darrington** seconded, and the motion passed by unanimous voice vote.

**PRESENTATION:** **Chairman Lodge** introduced **Ms. Kathie Garrett**, representing the

MINUTES

HOUSE HEALTH & WELFARE SUBCOMMITTEE  
BILBAO SUBCOMMITTEE

**DATE:** January 22, 2007  
**TIME:** 4:20  
**PLACE:** Room 408  
**MEMBERS:** Chairman Bilbao, Representatives Loertscher, Thayne and Chew  
**ABSENT/  
EXCUSED:** None

**Chairman Bilbao** called the meeting to order and asked for the first presentation.

**Docket #  
16-0305-0602**

**Susie Cummins** from the Idaho Department of Health and Welfare said she is a Medicaid Program Specialist and explained 16-0305-0602, the "Deficit Reduction Act of 2005" which was passed into law at the federal level to help reduce and slow the rising costs of Medicaid. She said there is a rule change that requires citizenship documentation and another that extends the period of time for asset transfers to be reviewed from 3 to 5 years. She also told how the penalties are imposed.

**Ms. Cummins** said all the rule changes are a result of the Federal Law changes passed February 8, 2006, with the purpose of protecting Medicaid for the needy by discouraging sheltering of assets. She explained how the new rules separate annuities and life estates into their own section and clarifies how to treat each of them.

A question was asked if any of the new rules would have an adverse effect for a spouse and the way married couples are evaluated. The answer was no and the new rules even help a spouse. It was also stated that the people involved with the elder laws knew about the rule changes and this hearing and were not in attendance.

**Representative Loertscher** moved that Docket 16-0305-0602 be recommended to the committee. The motion carried by voice vote.

**Docket #  
16-0305-0605**

**Susie Cummins** presented 16-0305-0605 as a rule change to help protect Medicaid for these who need it by discouraging the sheltering of assets and the rules are necessary because they provide clarifications based on Federal Laws that are used in determining eligibility for Idaho Medicaid assistance and how the rules should be applied.

**MOTION:**            **Representative Thayne** moved that Docket 16-0305-0605 be recommenced to the committee. The motion carried by voice vote.

**ADJOURN:**        Meeting was adjourned at 4:35.

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Representative Carlos Bilbao  
Chairman

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Mary Lou Moon  
Secretary

- 16-0601-0601
- 16-0602-0601
- 16-0606-0601
- 22-0104-0601
- 22-0105-0601
- 22-0106-0601
- 27-0101-0603

Responding to a request from **Rep. Bilbao**, **Rep. McGeachin** explained that all those who testified were in support of docket 16-0304-0601. **Rep. Luker** explained this docket exempts one vehicle from the tally of resources which determines food stamp eligibility; previously, only a vehicle worth less than \$4,650 would be exempt; the public testified that families needed a reliable vehicle to seek and maintain employment; in addition, this rule conforms more closely to the intent of the Code of Federal Regulations (CFR). **Rep. Rusche** noted the rule also improves the Department of Health and Welfare's administrative efficiency by saving approximately 15 minutes per application.

**MOTION:**

**Rep. McGeachin** moved that the full committee accept the recommendations of Subcommittee 2 to approve, as presented, the 16 dockets listed on page three of the Administrative Rules Final Reports (January 30, 2007). The motion carried by voice vote.

For Subcommittee 3, **Rep. Bilbao** presented recommendations to accept, as presented, the 8 dockets listed on page four of the Administrative Rules Final Reports (January 30, 2007):

- 16-0305-0605
- 16-0310-0603
- 24-0301-0601
- 24-0901-0601
- 24-1201-0601
- 24-1401-0601
- 24-1501-0601
- 24-1501-0602

**MOTION:**

**Rep. Bilbao** moved that the full committee accept the recommendations of Subcommittee 3 to approve, as presented, the 8 dockets listed on page four of the Administrative Rules Final Reports (January 30, 2007). The motion carried by voice vote.

**ADJOURN:**

The meeting adjourned at 4:10 p.m.

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Representative Pete Nielsen  
Vice Chairman

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Rachel Johnstone  
Secretary

## MINUTES

### HOUSE HEALTH AND WELFARE COMMITTEE

- DATE:** March 8, 2007
- TIME:** 2:20 p.m.
- PLACE:** Gold Room
- MEMBERS:** Chair Block, Vice Chair Nielsen, Representatives McGeachin, Bilbao, Loertscher, Shepherd(8), Marriott, Luker, Thayn, Henbest, Rusche, Chew
- GUESTS:** Paige Parker, Senior Legislative Analyst, Legislative Services Office; James Aydelotte, Bureau Chief, Health Policy and Statistics, Department of Health and Welfare; Davalee Leavitt, Department of Health and Welfare; Julie Lynde, Cornerstone Institute of Idaho; Julie Lyons, MD; Bryan Fischer, Executive Director, Idaho Values Alliance; Burke Hays, Planned Parenthood of Idaho; David Ripley, Executive Director, Idaho Chooses Life; Marty Durand, Executive Director, Idaho Women's Network; Jason Herring, Right to Life of Idaho; Katie Hagadone; Hannah Saona, American Civil Liberties Union.
- With a quorum present, **Chair Block** called the meeting to order. The Chair requested a silent roll call and welcomed the guests.
- MOTION:** **Rep. Loertscher** moved to accept the full committee minutes of February 20, as written. The motion carried by voice vote.
- MOTION:** **Rep. Nielsen** moved to accept the full committee minutes of February 22, as corrected. The motion carried by voice vote.
- Chair Block** announced that the Speaker has informed the chairmen that *sine die* will be earlier than expected; this committee is directed to finish all bills by the end of the day on Monday.
- MOTION:** **Rep. Loertscher** moved that the committee refer S1102, S1103, S1170, S1175, and S1047 to the House State Affairs committee. The motion carried by voice vote. **Chair Block** thanked the State Affairs chair.
- SCR112:** **Vice Chair Nielsen** led the committee while **Chair Block** presented SCR112. **Rep. Block** explained this resolution reflects this committee's decision to reject sections 112.02.d and 112.03.a from docket 16-0310-0602 (Medicaid Enhanced Plan benefits); these sections were more restrictive than Idaho's Children's Mental Health Act and the Legislature's Medicaid reforms of 2006 (HB 776 and HCR 48), specifically for children and adults with mental health concerns. Responding to a question from **Rep. Rusche**, **Rep. Block** confirmed these sections related to assessment and diagnosis processes for eligibility.
- MOTION:** **Rep. Loertscher** moved that the committee send SCR112 to the House floor with a do pass recommendation. The motion carried by voice vote. Rep. Rusche will carry SCR112 to the House floor.
- SCR113:** **Rep. Block** presented SCR113, which reflected this committee's decision

1 of 1 DOCUMENT

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Idaho Falls Post Register (Idaho Falls, Idaho)

May 18, 1997

**SECTION:** Column; Pg. E6

**LENGTH:** 414 words

**HEADLINE:** Some Medicaid planning is now illegal

**BYLINE:** Crandall and Oseen

**BODY:**

Beginning in 1997, an asset transfer may result in criminal penalties if the purpose of the transfer is to qualify for Medicaid payment of nursing home costs.

Only those individuals with minimal disposable income and minimal nonexempt" assets qualify for Medicaid. Therefore, a common strategy for preserving the family estate while having Medicaid foot a nursing home bill has been for ill or elderly family members to give nonexempt assets to other family members, while retaining exempt" assets. Exempt assets typically include a principal residence, about \$70,000 of a spouse's assets, and, within limits, an automobile and personal effects.

Federal law had already contained provisions which disqualified from eligibility individuals who gifted assets within 36 months of applying for Medicaid (60 months for transfers to certain trusts).

The disqualification could be even longer, as illustrated by the following example: Harry gives \$500,000 to his children. Thirty months later, he applies to Medicaid for payment of his nursing home costs, which in his state are reimbursed at \$4,000 per month.

Harry's eligibility period will be 125 months from the time he made the gift (\$500,000 divided by \$4,000). If Harry had waited an additional six months to apply for Medicaid, he could have been eligible immediately.

Under the new law, it is a criminal offense to knowingly and willingly transfer assets to qualify for Medicaid if application is made for benefits during a period of disqualification, as described above. The penalty ranges up to a \$25,000 fine and five years in prison. But asset transfers made before the 36- (60-) month look-back" period, regardless of the motive, still won't subject an applicant to criminal sanctions or disqualify an applicant from eligibility.

If you have questions about this process, consult an accountant.

Harvey Crandall III, Kent Oseen and Stephen Crandall are certified public accountants in Idaho Falls.

**LOAD-DATE:** May 20, 1997