

**Subcommittee on Idaho Code 72-602**  
**March 23, 2026**  
**9:00 a.m.**

*Members: Chris Wagener (Chair), Andrew Marcham, Patti Vaughn, Richelle Flores, Kayla Pollard, Kamerron Slay, Commissioner Claire Sharp, Commissioner Aaron White, Director George Gutierrez, Matt Caldwell, Matt Pappas, Dave Anderson, and Shellie Martin.*

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**1. Discussion of Intent.**

Mr. Wagener reviewed the agenda and addressed a recent employer inquiry regarding the continued requirement to complete a specific form. Upon examining both the form and Idaho Code § 72-602(5), Mr. Wagener noted that failure to file these forms constitutes a misdemeanor. In response to the Governor's Executive Order for agencies to eliminate obsolete and redundant provisions, Mr. Wagener proposed reviewing this section for potential updates and removal of unnecessary language. Subsequently, he learned that the Commission had already been working on revisions to this section as part of ongoing code cleanup efforts. The next step will be to review the repeal and amendment work completed by the Commission, as outlined in the handout provided (*See Handout Repeal/Amendment Idaho Code 72-602*).

**2. Review of the Current Statutory Language.**

Mr. Wagener noted that § 72-602 references several reports that now need updating to reflect current practices and electronic filing via Electronic Data Interchange (EDI). He reviewed IC Form 16 – Employer's Supplemental Report, and IC Form 6 – Summary of Payments, explaining that the information captured in these forms is now reported electronically. Mr. Wagener indicated this leads to the previous work by the Commission, which proposed leaving § 72-602(1) while removing obsolete language and striking § 72-602(2) and (3) which would require renumbering § 72-602(4) to (2), and removing "payable" but leaving "summary of compensation and medical paid" currently in § 72-602(4). Mr. Wagener discussed this draft language, referring to the handout on Repeal/Amendment Idaho Code 72-602. He pointed out that the original proposal removed § 72-602(5), which dealt with enforcement. Chair Sharp clarified that this was a working draft, with plans to potentially eliminate § 72-602(5) and consider alternative enforcement methods. However, it was advised to retain existing enforcement mechanisms unless a new approach is developed, as there is currently no strong push to shift toward monetary penalties.

Ms. Vaughn noted that the enforcement mechanism could be acknowledged, thereby ensuring compliance with surety enforcement. She clarified that failure to file does not exempt an individual from benefit payments. However, the approach to enforcement remains unclear compared to criminal violations, which are not actively pursued. Chair Sharp expressed openness to alternatives beyond criminal penalties but emphasized the need for an alternative mechanism. Mr. Wagener

concurrent regarding the enforcement mechanism. Mr. Pappas inquired whether any charges had been filed in the past ten years. Ms. Vaughn responded that no such instances have occurred during her 23-year tenure. Chair Sharp highlighted the goal of promoting compliance. Mr. Marcham suggested considering criminal penalties as alternatives to incarceration, while Chair Sharp remarked that penalties are generally more acceptable. Mr. Marcham observed that fees act as substitutes for penalties, noting that employers in other states incur higher costs and employ personnel specifically to contest penalties, which do not benefit employees. He cautioned against expanding penalty provisions. Chair Sharp recommended retaining the misdemeanor provision, referring cases only for significant violations of duties. Mr. Wagener noted that "willfully" in the current language means the violator must knowingly break the law. Mr. Wagener noted that, as a surety, issues arise when there is no covered policy or when they aren't classified as employees, especially for small businesses unfamiliar with claim-filing processes. Ms. Flores added that many such cases are filed directly with the Commission. Mr. Wagener pointed out problems when employers don't file, thinking they can't, and expressed interest in reviewing the language used. Mr. Marcham prefers not to introduce new penalties but is open to criminal ones. Mr. Wagener mentioned existing criminal fines and jail time, suggesting a review of the current wording.

Mr. Wagener reviewed § 72-602(4) related to "as the Commission shall prescribe by rule or regulation" and noted there is a movement to remove items from administrative rules and into statute. He questioned whether EDI could be referenced in statutory language. Still, Ms. Vaughn commented that doing so would also be problematic, since they follow system updates and prefer flexibility over being bound to a specific version. Although they agree in principle, referencing EDI introduces other challenges. Mr. Wagener suggested considering broader electronic claim submissions beyond just EDI. Director Gutierrez advised against explicitly mentioning EDI and suggested keeping the language broad to allow a small window, while ensuring provisions for fines or penalties, clarifying "willful" violations, and appeal rights for assessed fines. Director Gutierrez added that establishing fines or penalties involves extra scrutiny, so preparedness is important. Mr. Wagener felt existing procedures might address those concerns and suggested reviewing past Commission decisions for misdemeanors as precedent. Ms. Vaughn referenced *Rodriguez v. Woodgrain Millwork*, noting that in that case, the injury did not require immediate treatment, and the employer refrained from filing because medical attention was sought only at a significantly later date. Mr. Wagener clarified that, in that case, the matter was adjudicated rather than prosecuted. Ms. Vaughn noted this was the only relevant case she found in her research.

Mr. Marcham asked why the form wouldn't be filed. Ms. Vaughn explained that submitting a claim could affect their e-mod rating. Mr. Wagener suggested several possible reasons: some may not understand how the system works, others might lack insurance coverage and therefore avoid reporting, or they fear that filing a claim will lead to increased insurance costs.

Ms. Martin agreed with the comments made, stating that eliminating the supplemental report is important. She also mentioned that certain insured entities conduct audits and note noncompliance because the statute requires these forms to be filed, which haven't been. Ms. Vaughn added that EDI changes things and that they don't need to see a supplemental report as stated in § 72-602(2),

since there's no EDI equivalent, but believes § 72-602(3) should be retained. She expects an EDI transition for the termination of disability, with a suspension transaction, and information provided when the temporary disability ends or the PPI has been paid. The statute refers to compensation payment, but in surety practice, the Final Report (FN) is usually sent only at claim closure, which doesn't always coincide with termination; this should be acknowledged in subsequent reports. Ms. Flores advised retaining § 72-602(3) but recommends changing "final supplemental report" to "subsequent report," meaning the Subsequent Report of Injury (SROI), which should cover reporting at claim closure. Chair Sharp asked whether this should be included in § 72-602(3) or (4). Ms. Vaughn believes they are distinct. Ms. Flores suggested keeping the term "payable," since it frequently comes up and clearly indicates that payments are being made, and that the word "payable" should remain. Mr. Wagener noted that upon completion of the final payment, the obligation is fulfilled. Ms. Flores agreed and clarified that filing can occur immediately after payment is made. Ms. Vaughn emphasized that it's about claim closure, though practices vary. Ms. Flores gave an example of prepayments made through June 2026, but the FN was filed now because future benefits have already been paid. Mr. Wagener added that if you are not paying in installments, the process continues.

Discussion continued whether § 72-602(3) should include an updated supplemental report for termination, disability resumption, or reinstatement, with reference to SROI. Ms. Flores said using "subsequent" could cover all cases of reinstatement or suspension. Mr. Wagener added termination and/or retraining considerations. Ms. Martin proposed that § 72-602(3) reference EDI, noting that the filing is unchanged and handled via EDI. Director Gutierrez asked if "all changes" or "any changes to disability" would suffice for coverage. Mr. Wagener supported including rate changes under those terms. Ms. Flores commented that subsequent reporting would need a clear definition. Ms. Pollard asked if reinstatement captures the Initial Payment (IP). Ms. Flores clarified that IP isn't applicable there, as this section addresses benefit payments, not other changes such as rate adjustments. Ms. Martin indicated that rate adjustments may be covered under § 72-802. Mr. Wagener suggested keeping § 72-602(3) generic, with filing handled via EDI as per IDAPA. Chair Sharp asked for further comments. There were no additional comments offered.

### **3. Discussion on Changes to Statutory Language**

Mr. Wagener noted that, regarding next steps, there is consensus to remove § 72-602(2) and keep the removal to § 72-602(1), which eliminates references to mailing and written communication. Chair Sharp expressed the desire to retain § 72-602(3), with revisions required to align its language with EDI standards. Additionally, Chair Sharp recommended revising subsection 4 to preserve the term "payable" on the first line. Regarding § 72-602(3), Chair Sharp stated that the Commission has sufficient time to revise the wording. Ms. Flores commented that she appreciated the inclusion of "subsequent" in the language for § 72-602(3). The Commission will update and distribute the revised draft to the subcommittee. Mr. Wagener suggested verifying whether the term "employer" is used consistently or should be used to refer to both the surety and the employer. Regarding § 72-602(5), Chair Sharp advised retaining it but clarified that introducing penalties or fines is not currently under consideration. Mr. Wagener concluded that the Commission would review the

language and recommend updates to claims reporting processes with EDI, ensuring these changes are reconciled with the discussions for the new proposed language.

#### **4. Adjournment**

Mr. Wagener stated that June is the deadline for submitting legislative ideas. He suggested holding a meeting in a month to review the revised language. Ms. Slay will provide subcommittee members with a new meeting date by the end of next week. Ms. Flores will revise the language. The next Advisory Committee meeting is scheduled for May 20th. Mr. Wagener expressed his appreciation to the participants for their time. The meeting ended at 9:40 a.m.