Dear Senators PATRICK, Martin, Schmidt, and Representatives BARBIERI, Clow, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Bureau of Occupational Licenses - Board of Architectural Examiners:

IDAPA 24.01.01 - Rules of the Board of Architectural Examiners - Proposed Rule (Docket No. 24-0101-1601).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10/27/2016. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/25/2016.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the memorandum attached below



Legislative Services Office Idaho State Legislature

Eric Milstead Director Serving klaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the

House Business Committee

FROM: Senior Legislative Research Analyst - Elizabeth Bowen

DATE: October 07, 2016

SUBJECT: Bureau of Occupational Licenses - Board of Architectural Examiners

IDAPA 24.01.01 - Rules of the Board of Architectural Examiners - Proposed Rule (Docket No. 24-0101-1601)

The Bureau of Occupational Licenses submits notice of proposed rulemaking for the Board of Architectural Examiners at IDAPA 24.01.01. The proposed rule incorporates by reference the most recent National Council of Architectural Registration Board's Certification Guidelines and Rules of Conduct. Additionally, the rule revises requirements relating to the Architectural Registration Examination and clarifies license renewal and registration requirements. Finally, the rule removes existing language that requires legal services to the Board to be provided by the Office of the Attorney General.

Negotiated rulemaking was not conducted, but the proposed rule was discussed in open, noticed meetings of the Board. There is no negative fiscal impact on the state general fund. This rulemaking appears to be within the authority granted by Section 54-312, Idaho Code.

cc: Bureau of Occupational Licenses - Board of Architectural Examiners Tana Cory

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.01.01 - RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS DOCKET NO. 24-0101-1601

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This change incorporates the most recent National Council of Architectural Registration Board's (NCARB) Certification Guidelines and Rules of Conduct, defines three new terms, provides the board more flexibility when deciding whom may sit for the Architectural Registration Examination (ARE), clarifies license renewal and reinstatement requirements, and removes the requirement that legal services be provided to the board by the Attorney General.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The 2015 NCARB Certification Guidelines contain current national standards of certification that protect the health, safety, and welfare of the public. The 2014 NCARB Rules of Conduct contain the latest rules of conduct that architects are required to follow. The Certification Guidelines and Rules of Conduct currently incorporated into the Rules of the Board of Architectural Examiners have been superseded by these publications.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mitchell Toryanski at (208) 334-3233. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 2nd day of September, 2016.

Tana Cory, Bureau Chief Bureau of Occupational Licenses 700 W State St. P O Box 83720 Boise, ID 83720-0063

Phone: (208) 334-3233 Fax: (208) 334-3945

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-1701-1601 (Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled 2011–2012 NCARB Handbook for Interns and Architects Certification Guidelines, dated July 20145, referenced in Subsection 250.01, is herein incorporated by reference. The document titled NCARB Rules of Conduct as published by the National Council of Architectural Registration Boards, Dated July 20144, referenced in Section 750, is hereby incorporated by reference. All documents incorporated by reference can be obtained at the office of the Bureau and on the Board website.

(BREAK IN CONTINUITY OF SECTIONS)

010.	DEF	DEFINITIONS (RULE 10).		
	01	AYP Architectural Experience Program	(

- **042. Board**. The Board of Architectural Examiners as prescribed in Section 54-312, Idaho Code. (7-1-93)
- **023. Bureau**. The Bureau of Occupational Licenses as prescribed in Sections 54-605 and 67-2602, Idaho Code. (3-15-02)
- **034. Direct Supervision**. Direct supervision of an unlicensed individual in the practice of architecture means the exercise of management, control, authority, responsibility, oversight and guidance over the unlicensed individuals work, activities and conduct. (3-27-13)
 - 05. NAAB. National Architectural Accrediting Board.
 - <u>06.</u> NCARB. National Council of Architectural Registration Board.
- **047. Responsible Control**. Responsible control means that amount of control over and detailed knowledge of the content of technical submissions during their preparation as is ordinarily exercised by registered architects applying the required professional standard of care. Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible control because the reviewer has neither control over nor detailed knowledge of the content of such submissions throughout their preparation. (3-27-13)
- 011. -- 099. (RESERVED)

100. ORGANIZATION (RULE 100).

01. Organization of the Board. At the *last* <u>first</u> meeting of each <u>calendar</u> year, the Board shall organize and elect from its members a Chairman and Vice Chairman, who shall assume the duties of their respective offices immediately upon such selection.

(3-15-02)(_____)

02. Board Members and Duties. (7-1-93)

a. Chairman. The Chairman shall be a voting member of the Board, and when present preside at all meetings, appoint with the consent of the Board, all committees, and shall otherwise perform all duties pertaining to the office of Chairman. The Chairman shall be an ex-officio member of all committees. (7-1-93)

- **b.** Vice Chairman. The Vice Chairman shall, in the absence or incapacity of the Chairman exercise the duties and possess all the powers of the Chairman. (7-1-93)
- c. Bureau Chief. The Chief of the Bureau of Occupational Licenses shall act as an agent of the Board and shall be the official keeper of all records of the Board. The Bureau shall provide such services as may be authorized by Section 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board.

 (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

250. QUALIFICATIONS OF APPLICANTS (RULE 250).

01. ARE Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the NCARB Handbook for Interns and Architects, where such handbook does not conflict with Idaho law a professional degree in architecture from a program that is accredited by the National Architectural Accrediting Board (NAAB) or that is approved by the Board. All applicants for the ARE must have started or completed the Intern Development Architectural Experience Program (IDAXP) requirements.

O2. Experience in Lieu of Degree Applicants. The Board may allow an applicant without an architecture degree to sit for the architecture examination upon determining that such applicant has attained the knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Said experience shall be in addition to may include that necessary for completion of the Intern Development Program (IDP) requirements AXP. Two (2) years of eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect. A person is qualified for the examination once they have met the experience requirement and started the Intern Development Program (IDP) AXP.

251. – 299. (RESERVED)

300. APPLICATION (RULE 300).

01. Licensure by Examination.

(7-1-93)

- **a.** Application for licensure by examination shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. (4-7-11)
- **b.** Applicants shall furnish all information required by the uniform application form and shall include the following: (3-15-02)
 - i. Certified transcript of all subjects and grades received for all college courses taken. (7-1-93)
- ii. If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed. (7-1-93)
- iii. Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment.

 (7-1-93)
 - iv. A recent passport photograph taken within the previous year for identification purposes. (3-30-01)

- v. In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited. (7-1-93)
- **c.** Application shall not be reviewed by the Board until all required information is furnished and the required fee is paid. (3-15-02)
- d. To be considered by the Board, properly completed applications must be received by the Bureau at least thirty (30) days prior to the first day of the month in which the Board will meet. (3-15-02)

02. Licensure by Endorsement -- Blue Cover.

(7.1.97)

- General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board.

 (7-1-97)(_____)
- b. Seismic knowledge requirements for endorsement applicants. Each applicant for license under endorsement to practice architecture in the state of Idaho shall submit evidence of his skill and knowledge in seismic design and such evidence shall be submitted and signed by the applicants acknowledged before a notary public, and shall contain one of the following statements:

 (7-1-97)
- i. "I have passed the examinations in Building Construction and Structural Design of the Western Conference of State Architectural Registration Boards in June 1963 or since and/or the NCARB in 1965 or since."

 (7-1-97)
- ii. "I am registered in the State of _____in 20___, where competence in seismic was a requirement for registration since _____, 20 __."
- iii. Certification of the successful completion of the seismic seminar approved by the National Conference of Architectural Registration Boards. (7-1-93)
- e. All applicants shall attach to their statement a certification from the State architectural registration agency of the cited state attesting the adequacy of the cited seismic examination. (7-1-93)

03. Licensure by Endorsement -- Equivalency.

(7-1-97)

- **a.** Application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau Applicants for licensure by endorsement must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation.

 (3-15-02)(
- **b.** Applicant shall comply with all requirements set forth in Subsections 300.01, 300.02.b.i., 300.02.b.ii., 300.02.b.iii., and 300.02.c. (7-1-97)
- eb. Applicants shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board.

 (7 1 97)(_____)
- Applicants shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board.

301. -- 349. (RESERVED)

350. REGISTRATION EXAMINATION (RULE 350).

The Board, having found that the content and methodology of the ARE prepared by NCARB is the most practicable and effective examination to test an applicant's qualifications for registration, adopts the ARE as the single, written and/or electronic examination for registration of architects in this state, and further adopts the following rules with

respect thereto: (7-1-97)

- **01. When Taken**. The Board will cause the ARE, prepared by NCARB, to be administered to all applicants eligible, in accordance with the requirements of the Board, by their training and education to be examined for registration on dates scheduled by the NCARB. The Board shall cause repeat divisions of the ARE to be administered to qualified candidates on such dates as are scheduled by the NCARB. The ARE examination is a multiple part examination prepared by NCARB. Content of the examination in all of its sections is available from the Board or NCARB.

 (4-11-06)
- **O2. Grading**. The ARE shall be graded in accordance with the methods and procedures recommended by the NCARB. To achieve a passing grade on the ARE, an applicant must receive a passing grade in each division. Grades from the individual division may not be averaged. Applicants will have unlimited opportunities to retake division which they fail except as set forth in these rules. The Board shall accept passing grades of computer administered divisions of the ARE as satisfying the requirements for said division(s) when such examinations are administered as prescribed by the NCARB. (4-11-06)
- **Passing (ARE)**. To pass the ARE, an applicant must achieve a passing grade on each division. **Effective July 1, 2006, and s** ubject to certain conditions, a passing grade for any division of the ARE shall be valid for five (5) years, after which time the division must be retaken unless all divisions have been passed. The Board may allow a reasonable extension of such period in circumstances where completion of all divisions is prevented by a medical condition, active duty in military service, or other like causes. Approval to take the ARE will terminate unless the applicant has passed or failed a division of the ARE within a period of five (5) years. Any applicant whose approval has so terminated must reapply for approval to take the ARE.
 - **104. Transition**. The transitional rules are as follows:

(4-11-06)

- **a.** For applicants who have passed all divisions of the ARE by July, 2006 regardless of the time taken, will have passed the ARE.

 (4-11-06)
- b. For applicants who have passed one (1) or more but not all divisions of the ARE by July 1, 2006, such applicants will have five (5) years to pass all remaining divisions. A passing grade for any remaining division shall be valid for five (5) years, after which time the division must be retaken if the remaining divisions have not been passed. The five (5) year period shall commence after July 1, 2006, on the date when the first passed division is administered. Any division passed prior to January 1, 2006, shall no longer remain valid if all remaining divisions have not been passed by July 1, 2014.
- e. For applicants who have passed no divisions of the ARE by July 1, 2006, such applicants shall be governed by the five (5) year requirement outlined in Subsection 350.04.b of these rules. The five (5) year period shall commence on the date when the first passed division is administered.

 (3-27-13)
- d. After July 1, 2014, approval to take the ARE shall terminate unless the applicant has passed or failed a division of the ARE within a period of five (5) years. Any applicant whose approval has so terminated must reapply for approval to take the ARE.

 (3-27-13)

(BREAK IN CONTINUITY OF SECTIONS)

375. ARCHITECTURAL INTERN (RULE 375).

An individual may represent themselves as an architectural intern only under the following conditions: (3-15-02)

- **01. Supervision**. Each architectural intern shall be employed by and work under the direct supervision of an Idaho licensed architect. (3-15-02)
- **02. IDP AXP Enrollment**. Each architectural intern shall be enrolled in **the National Council of Architectural Registration Board's** (NCARB's) **Intern Development Program** (IDP) **AXP** and shall maintain a record in good standing.

03. Record. Each architectural intern shall possess either:

- (3-15-02)
- a. A record with the NCARB establishing that *IDP* AXP training units are being earned in any of the *IDP training settings A, B, C, D or E* has been started; or (3 15 02)(_____)
 - **b.** A record establishing completion of all *IDP* <u>AXP</u> training regulations as specified by NCARB.
- **04. Prohibitions**. An architectural intern shall not sign or seal any architectural plan, specification, or other document. An architectural intern shall not engage in the practice of architecture except under the direct supervision of an Idaho licensed architect. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

450. CONTINUING EDUCATION (RULE 450).

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (3-20-04)

- 01. Continuing Education Requirement. Each Idaho licensed architect must successfully complete a minimum of eight (8) hours of continuing education in architectural health, safety and welfare annually for license renewal. Effective January 1, 2014, and for each year thereafter, eEach Idaho licensed architect must successfully complete a minimum of twelve (12) hours of continuing education in architectural health, safety and welfare in the calendar year prior to license renewal.

 (3-29-12)(_____)
- **a.** Each licensee shall submit to the Board a license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the annual CE requirements have been met during the previous twelve (12) months. Effective January 1, 2014, and for each year thereafter, each licensee shall submit to the Board a license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the annual CE requirements have been met during the previous calendar year. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements.

 (3-29-12)
- Each licensee will submit to the Board their annual renewal application form and required fees, and will certify that they have complied with annual CE requirements for the previous calendar year. Each licensee will provide to the Board together with their application for reinstatement of an expired license form and required fees, proof of compliance with annual CE requirements for each year that their license was expired. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code.
- **b.** A licensee shall be considered to have satisfied their CE requirements for the first renewal of their initial license. Licensees who have failed to meet the annual continuing education requirement may petition the Board for additional time to complete their continuing education requirements. (3-20-04)
- e. Prior to reinstatement of a license lapsed, canceled or otherwise non-renewed for less than five (5) years, the applicant shall provide proof of attendance consisting of eight (8) hours of continuing education for each year the license was lapsed. Effective January 1, 2014, prior to reinstatement of a license lapsed, canceled or otherwise non-renewed for less than five (5) years, the applicant shall provide proof of attendance consisting of twelve (12) hours of continuing education for each year the license was lapsed. A license lapsed, canceled or otherwise not renewed for more than five (5) years may be reinstated in accordance with Section 67-2614, Idaho Code.
- As A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. (3-29-12)
 - e. One (1) continuing education hour shall be equal to one (1) learning unit, as determined by the

American Institute of Architects, or one (1) clock hour of education, as determined by the Board. (3-20-04)

- **02.** Architectural Health, Safety and Welfare Requirement. To qualify for continuing education, a course must involve architectural health, safety and welfare, which generally relates to the structural integrity or unimpairedness of a building or building sites and be germane to the practice of architecture. Courses may includes the following subject areas:

 (3-20-04)(_____)
- **a.** Legal, which includes laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public. (3-29-12)
- **b.** Building systems, which includes structural, mechanical, electrical, plumbing, communications, security, and fire protection. (3-29-12)
- **c.** Environmental, which includes energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation. (3-29-12)
 - **d.** Occupant comfort, which includes air quality, lighting, acoustics, ergonomics. (3-29-12)
- e. Materials and methods, which includes construction systems, products, finishes, furnishings, and equipment. (3-29-12)
 - **f.** Preservation, which includes historical, reuse, and adaptation. (3-29-12)
- **g.** Pre-Design, which includes land use analysis, programming, site selection, site and soils analysis, and surveying. (3-29-12)
- **h.** Design, which includes urban planning, master planning, building design, site design, interiors, safety and security measures. (3-29-12)
 - i. Construction documents, which includes drawings, specifications, and delivery methods. (3-29-12)
 - Construction contract administration, which includes contracts, bidding, contract negotiations.
 (3-29-12)
- **03. Approved Credit**. Continuing education courses must be in the subject of architectural health, safety and welfare and be presented by: (3-20-04)
- **a.** Providers approved by the National Architectural Accreditation Board (NAAB) schools of architecture; or (3-20-04)
 - **b.** Providers approved by the National Council of Architect Registration Board (NCARB); or (3-20-04)
 - c. Providers approved by the American Institute of Architects (AIA); or (3-20-04)
- **d.** Providers as otherwise approved by the Board. All requests for approval or pre-approval of continuing education credits must be made to the Board in writing and must be accompanied by a statement that includes the name of the instructor or instructors, his or her qualifications, the date, time and location of the course, the specific agenda for the course, the number of continuing education hours requested, and a statement of how the course is believed to be in the nature of architectural health, safety and welfare. (3-20-04)
- **04. Verification of Attendance**. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee for a period of five (5) years and provided to the Board upon request of the Board or its agent. (3-29-12)
 - **05.** Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for

those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. (3-20-04)

- **06. Exemptions.** A licensed architect shall be deemed to have complied with the CE requirements if the licensee attests in the required affidavit that for not less than ten (10) months of the preceding one (1) year period of licensure, the architect has met one (1) of the following criteria: (3-20-04)
- a. Has served honorably on active duty in the military service (exceeding ninety (90) consecutive days). (3-20-04)
 - **b.** Is a government employee working as an architect and assigned to duty outside the United States. (3-20-04)
- c. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board.

 (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

551. -- <u>56</u>99. (RESERVED)

600. LEGAL ADVICE (RULE 600).

All legal advice shall be furnished the Board by the Office of the Attorney General of the State of Idaho or such legal advice may be furnished by private legal counsel with the approval of the Board.

(7-1-93)

601. - 699. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

752. -- 799800. (RESERVED)

800. RULEMAKING HISTORY PRIOR TO JULY 1, 1993 (RULE 800).

ADOPTED DECEMBER 29, 1989 EFFECTIVE JANUARY 18, 1990 ADOPTED BY EMERGENCY NOVEMBER 2, 1990 EFFECTIVE APRIL 4, 1991 ADOPTED BY EMERGENCY MARCH 1, 1991 EFFECTIVE JUNE 4, 1991 SUPERSEDING ALL PREVIOUS RULES

(7.1.93)

801. 999. (RESERVED)

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

Idaho Bureau of Occupational License
IDAPA 24.01.01 - Rules Governing the Board of Architectural Examiners
Proposed Rulemaking - Docket No. 24-0101-1601

The 2015 NCARB Certification Guidelines contain current national standards of certification that protect the health, safety, and welfare of the public. The 2014 NCARB Rules of Conduct contain the latest rules of conduct that architects are required to follow. The older Certification Guidelines and Rules of Conduct currently incorporated into the Rules of the Board of Architectural Examiners have been superseded by these publications.