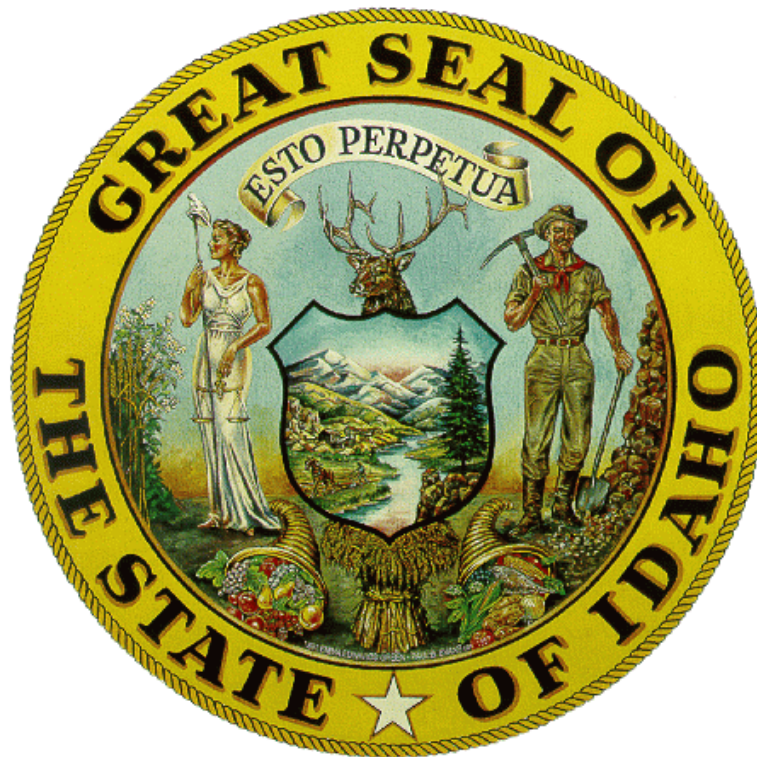


DIVISION OF BUILDING SAFETY  
FACTORY BUILT STRUCTURES  
ADVISORY BOARD  
VIDEOCONFERENCE MEETING

JULY 9, 2019



# FACTORY BUILT STRUCTURES ADVISORY BOARD

**Agenda Item No. 01**

**Agenda and Minutes**

**PRESENTER:** Markus Alley, Chairman

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**OBJECTIVE:** Approve the Factory Built Structures Advisory Board's July 9, 2019 Agenda, May 14, 2019 Draft Meeting Minutes and May 2, 2019 Special Draft Meeting Minutes.

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**ACTION:** Consent

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**BACKGROUND:**

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**PROCEDURAL  
HISTORY:**

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**ATTACHMENTS:** Tentative Agenda and Draft Minutes

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# **NOTICE OF PUBLIC MEETING**

## **FACTORY BUILT STRUCTURES ADVISORY BOARD VIDEOCONFERENCE MEETING**

**Division of Building Safety  
1090 East Watertower Street, Suite 150, Meridian  
1250 Ironwood Drive, Suite 220, Coeur d'Alene  
2055 Garrett Way, Building 1, Suite 4, Pocatello**

**Teleconference – 877-820-7831--529619  
dbs.idaho.gov – (208) 332-7137**

**Tuesday, July 9, 2019  
9:30 a.m. – 11:30 a.m. (MDT)  
8:30 a.m. – 10:30 a.m. (PDT)**

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**9:30 a.m. CALL TO ORDER** – Markus Alley, Chairman

- Roll Call & Introductions
- Open Forum

### **CONSENT AGENDA**

1. Approval of the July 9, 2019 Agenda, May 14, 2019 Draft Meeting Minutes and May 2, 2019 Special Draft Meeting Minutes – Markus Alley

### **ACTION AGENDA**

2. Election of Officers – Markus Alley
3. Schedule 2020 Meeting Dates – Markus Alley
4. Conduct Negotiated Rulemaking on and Approve Amendments to the Idaho Manufactured Home Installation Standard – Ron Whitney, Deputy Administrator
5. Approve Proposed Legislation
  - a. Elimination or Consolidation of Manufactured Home Licenses – Patrick J. Grace, Regional Manager
  - b. Reduction of Fees for Manufacturers of Modular Buildings – Ron Whitney

### **INFORMATIONAL AGENDA**

6. Number of Units from Out-of-State Retailers/Installers Unlicensed in Idaho – Mike Davis, Lead Manufactured Home Inspector

7. Administrator Report – Chris L. Jensen, Administrator
  - a. Financial Report

**11:30 a.m. ADJOURN**

*For additional agenda information, refer to the packet, available one week prior to this meeting, at the DBS's central and regional offices and <https://dbs.idaho.gov/boards/fbsboard/fbsmeetings.html>.*

*All times, other than beginning, are approximate and scheduled in accordance to Mountain Daylight Time (MDT), unless otherwise noted. Agenda items may shift depending on the Factory Built Structures Advisory Board's preference. 06/20/2019rb*

**FACTORY BUILT STRUCTURES ADVISORY BOARD  
VIDEOCONFERENCE MEETING**

**Tuesday – May 14, 2019 – 9:30 a.m. (MDT)**

**Division of Building Safety  
1090 East Watertower Street, Suite 150, Meridian  
1250 Ironwood Drive, Suite 220, Coeur d'Alene  
2055 Garrett Way, Building 1, Suite 4, Pocatello**

**DRAFT MINUTES OF THE MAY 14, 2019 MEETING**

**NOTE:** The following report is not intended to be a verbatim transcript of the discussions at the meeting, rather to record the significant features of those discussions.

Chairman Markus Alley called the meeting to order at 9:30 a.m. (MDT)

**Board Members Present:**

Markus Alley, Chairman  
Brian Mattson  
Ken Roche  
Kenna Draper  
Michael Hampton  
Mike Jensen

**DBS Staff Members Present:**

Chris L. Jensen, Administrator  
Ron Whitney, Deputy Administrator  
Spencer Holm, Deputy Attorney General  
Larry Jeffres, Regional Manager, Region 1  
Patrick J. Grace, Regional Manager, Region 2  
Adam Bowcutt, Regional Manager, Region 3  
Jeff Egan, Building Program Manager  
Lisa Stover, Building Program Supervisor  
Renee Bryant, Administrative Assistant 2

◆ **Open Forum**

There were no new issues to discuss under open forum.

◆ **Approval of the May 14, 2019 Agenda**

**MOTION:** Mike Jensen made a motion to approve the agenda as presented. Ken Roche seconded. All in favor, motion carried.

◆ **Approval of the February 12, 2019 Draft Minutes**

**MOTION:** Ken Roche made a motion to approve the minutes as written. Michael Hampton seconded. All in favor, motion carried.

◆ **Amendments to the Idaho Installation Standard**

Deputy Administrator Ron Whitney would like to have a workshop with the collaborative either June 18<sup>th</sup> or 25<sup>th</sup>, to discuss the checklist and modifications to the Idaho Installation Standard. The intent is to update the Standard to the 2020 edition for possible approval at the 2020 Legislative Session.

◆ **Manufactured Home Installation Tag**

Lead Manufactured Home Inspector Mike Davis explained HUD requires DBS to obtain data on every first home installation. HUD's contractor, Institute for Building Technology and

Safety (IBTS), only provides information to DBS on homes purchased from the manufacturer and installed directly to an Idaho home site. The Division receives additional information from installation tags on homes shipped to a dealer, and eventually to an Idaho home site. At this time, DBS would like to table the proposal of removing the installation tag.

◆ **Number of Units from Out-of-State Manufacturers/Retailers Unlicensed in Idaho**

In the last 12 months, there were 185 HUD homes shipped from out-of-state manufacturers into Idaho. The Board's main concern is unlicensed out-of-state retailers selling in Idaho. Deputy Attorney General Spencer Holm read the licensing definition of "manufacturer" and "retailer" from statute. It was further explained the state is imposing a requirement on its retailers operating in Idaho, and they are competing against potentially unlicensed retailers from other states. Sales tax was another issue. Deputy Administrator Whitney questioned whether there was a need to modify the installation tags; requiring the retailer license.

When asked, Lead Manufactured Home Inspector Davis offered to provide the number of homes sold in Idaho by non-Idaho licensed out-of-state retailers, as well as homes installed in the state of Idaho by non-Idaho licensed out-of-state installers.

**ACTION:** For the July 2019 Board meeting, the Lead Manufactured Home Inspector will provide statistics on non-Idaho licensed out-of-state retailers/installers selling/installing homes in the state of Idaho.

**ACTION:** The topic *Number of Units from Out-of-State Retailers/Installers Unlicensed in Idaho* will be placed as an informational item on the agenda for the July Board meeting.

◆ **Elimination or Consolidation of Manufactured Home Licenses**

In 2017, an executive order (EO) was issued asking all licensing boards to drill down on licensing requirements. In 2019, Governor Brad Little issued two additional EOs; 1) Red tape reduction and 2) Sunrise/sunset clauses.

The Idaho Housing Alliance (IHA) suggested the elimination of the resale broker, sales person and responsible managing employee (RME) license categories in favor of resale brokers being required to obtain a retailer license and bond, as well as retailers and installers being responsible for their own employees without the need for designating one of them as an RME or sales person. Currently, there are two retail brokers, 51 sales person and 14 RME's licensed with the Division. HUD requires only an installer license.

The Governor's office is particularly interested in rehabilitating individuals coming out of the criminal justice system, and specifically asked whether DBS has any licenses that require criminal background checks or requirements to any ethical practices as a conditional licensure renewal. The original retailer license is the only license requiring a criminal background check, and that was established in 2007.

In rules, a retailer is required to have a \$20,000 bond and the resale broker a \$30,000 bond. For the bond requirement to apply equally to both licenses, one will need to be increased or decreased. Regional Manager Patrick J. Grace will work with Deputy Attorney General

Holm to generate proposed language as recommended by the IHA. Until further notice, a criminal background check will be required to obtain a retailer license.

**ACTION:** The Regional Manager, with assistance from the Deputy Attorney General, will create draft language to remove resale broker, sales person and responsible managing employee (RME) license categories in the rules.

**ACTION:** The topic *Elimination or Consolidation of Manufactured Home Licenses* will be placed as an informational item on the July Board meeting agenda.

◆ **Administrator Report**

Except for a couple of inspectors retiring this summer, DBS is fully staffed and very busy.

◆ **Adjournment**

**MOTION:** Mike Jensen made a motion to adjourn the meeting. Kenna Draper seconded. All in favor, motion carried.

The meeting adjourned at 10:44 a.m. (MDT)

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MARKUS ALLEY, CHAIRMAN  
FACTORY BUILT STRUCTURES  
ADVISORY BOARD

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CHRIS L. JENSEN, ADMINISTRATOR  
DIVISION OF BUILDING SAFETY

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DATE

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DATE

These DRAFT minutes are subject to possible correction and final approval by the Factory Built Structures Advisory Board.  
06/13/2019rb

**FACTORY BUILT STRUCTURES  
ADVISORY BOARD  
SPECIAL TELECONFERENCE/  
VIDEOCONFERENCE MEETING**

**Thursday – May 2, 2019 – 10:34 a.m. (MDT)**

**Division of Building Safety  
1090 East Watertower Street, Suite 150, Meridian  
1250 Ironwood Drive, Suite 220, Coeur d'Alene  
2055 Garrett Way, Building 1, Suite 4, Pocatello**

**\*DRAFT MINUTES OF THE MAY 2, 2019 SPECIAL MEETING**

*NOTE: The following report is not intended to be a verbatim transcript of the discussions at the meeting, rather to record the significant features of those discussions.*

Chairman Markus Alley called the special meeting to order at 10:34 a.m. (MDT)

**Board Members Present:**

Markus Alley, Chairman – Teleconference  
Jeff Chrisman  
Michael Hampton  
Ken Roche – Teleconference  
Spencer McLean – Teleconference  
Brian Mattson – Teleconference

**DBS Staff Members Present:**

Spencer Holm, Deputy Attorney General  
Patrick J. Grace, Regional Manager, Region 2  
Adam Bowcutt, Regional Manager, Region 3  
Renee Bryant, Administrative Assistant 2

◆ **Authorize Notice of Omnibus Rulemaking and Notice of Omnibus Fee Rulemaking with regard to IDAPA 07.03.03 and 07.03.11**

Each year the Idaho legislature reauthorizes all existing administrative rules through June 30<sup>th</sup> of the upcoming year. This year the 2019 Idaho legislature did not pass a bill; therefore, existing rules will expire on July 1, 2019.

On April 23, 2019, DBS received a memo from the Division of Financial Management (DFM) explaining the process to reauthorize rules beyond June 30, 2019. State executive agencies, by approval of their boards having rulemaking authority, must submit completed Notice of Omnibus Rulemaking and Notice of Omnibus Fee Rulemaking to DFM no later than May 10, 2019. Rules will be published as both temporary and proposed rules concurrently in a special edition of the Idaho Administrative Bulletin in June 2019. The temporary rules will have an effective date of June 30, 2019 to ensure there is no gap with the expiring rules.

**MOTION:** Jeff Chrisman made a motion to authorize Notice of Omnibus Rulemaking and Notice of Omnibus Fee Rulemaking with regard to IDAPA 07.03.03 and 07.03.11. Michael Hampton seconded. All in favor, motion carried.



◆ **Adjournment**

**MOTION:** Jeff Chrisman made a motion to adjourn the meeting. Ken Roche seconded. All in favor, motion carried.

The meeting adjourned at 10:38 a.m. (MDT)

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MARKUS ALLEY, CHAIRMAN  
FACTORY BUILT STRUCTURES  
ADVISORY BOARD

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PATRICK J. GRACE, REGIONAL MANAGER  
DIVISION OF BUILDING SAFETY

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DATE

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DATE

*\*These DRAFT minutes are subject to possible correction and final approval by the Factory Built Structures Advisory Board.  
05/18/2019rb*

# FACTORY BUILT STRUCTURES ADVISORY BOARD

**Agenda Item No. 02**

**Election of Officers**

**PRESENTER:** Markus Alley, Chairman

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**OBJECTIVE:** Appoint officers to the Factory Built Structures Advisory Board from the active members.

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**ACTION:** Elect a chairman, vice-chairman and secretary.

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**BACKGROUND:**

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**PROCEDURAL**

**HISTORY:** In accordance with Idaho Code § 39-4302, the Board shall, on the first day of July or as soon as thereafter as practicable, elect a chairman, vice-chairman and secretary from among its members and these officers shall hold office until their successors are elected.

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**ATTACHMENTS:** No Documentation

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# FACTORY BUILT STRUCTURES ADVISORY BOARD

## Agenda Item No. 03

## Schedule 2020 Meeting Dates

**PRESENTER:** Markus Alley, Chairman

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**OBJECTIVE:** Schedule 2020 board meetings.

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**ACTION:** Vote to accept, reject or modify the 2020 meeting dates as addressed under *Background*.

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**BACKGROUND:** For the Board's consideration, selected are the following 2020 dates, which are the second Tuesday of each month:

**February 11th, May 12th, and July 14th**

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## **PROCEDURAL HISTORY:**

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**ATTACHMENTS:** 2020 Board Meeting Calendar

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# FACTORY BUILT STRUCTURES ADVISORY BOARD

## Agenda Item No. 04                      Conduct Negotiated Rulemaking on and Approve Amendments to the Idaho Manufactured Home Installation Standard

**PRESENTER:**            Ron Whitney, Deputy Administrator

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**OBJECTIVE:**            Incorporate amendments into the Idaho Installation Standard.

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**ACTION:**                Vote to accept or deny the proposed amendments to the Idaho Manufactured Home Installation Standard.

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**BACKGROUND:**    February 2019 – The State adopts the Idaho Installation Standards for used manufactured homes installed in Idaho. Since the adoption of the 2018 edition, DBS has identified two items that need modified; roof snow loads and frost line. (A handout of the existing provision, as well as proposed amendment was provided to the Board.) Moving forward, the Division would include a page in the Standard; identifying amendments since the last wholesale edition. When it’s time to adopt a whole new edition, the amendments would be incorporated into the new standard. It was questioned whether amendments need to go through the rulemaking procedure. Deputy Attorney General Holm offered to research; bringing an answer to the May 2019 Board meeting.

April 2019 – Deputy Administrator Ron Whitney would like to have a workshop with the Collaborative to discuss the checklist and modifications to the Idaho Installation Standard. The intent is to update the Standard to the 2020 edition for possible approval at the 2020 Legislative Session.

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### **PROCEDURAL HISTORY:**

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**ATTACHMENTS:**    No Documentation

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# FACTORY BUILT STRUCTURES ADVISORY BOARD

## Agenda Item No. 05a Elimination or Consolidation of Manufactured Home Licenses

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**PRESENTER:** Patrick J. Grace, Regional Manager

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**OBJECTIVE:** Eliminate or consolidate manufactured home licenses.

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**ACTION:** Vote to accept or deny the proposed rule changes.

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**BACKGROUND:** April 2019 – In 2017, an executive order (EO) was issued asking all licensing boards to drill down on licensing requirements. In 2019, Governor Brad Little issued two additional EOs; 1) Red tape reduction and 2) Sunrise/sunset clauses. The Idaho Housing Alliance (IHA) suggested the elimination of the resale broker, sales person and responsible managing employee (RME) license categories in favor of resale brokers being required to obtain a retailer license and bond, as well as retailers and installers being responsible for their own employees without the need for designating one of them as an RME or sales person. The Governor’s office is particularly interested in rehabilitating individuals coming out of the criminal justice system, and specifically asked whether DBS has any licenses that require criminal background checks or requirements to any ethical practices as a conditional licensure renewal. The original retailer license is the only license requiring a criminal background check.

In rules, a retailer is required to have a \$20,000 bond and the resale broker a \$30,000 bond. For the bond requirement to apply equally to both licenses, one will need to be increased or decreased. Regional Manager Patrick Grace will work with Deputy Attorney General Holm to generate proposed language as recommended by the IHA.

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**ATTACHMENTS:** Proposed Statute Changes

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SIXTY-SIXTH LEGISLATURE  
LEGISLATURE OF THE STATE OF IDAHO  
Second Regular Session – 2020

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO.

BY

AN ACT

RELATING TO MANUFACTURED HOMES; AMENDING SECTION 44-2101, IDAHO CODE, TO ELIMINATE LICENSE REQUIREMENTS AND A CRIMINAL HISTORY BACKGROUND CHECK; AMENDING SECTION 44-2101A, IDAHO CODE, TO ELIMINATE LICENSE DEFINITIONS; AMENDING SECTION 44-2102, IDAHO CODE, TO ELIMINATE LICENSE REQUIREMENTS; AMENDING SECTION 44-2103, IDAHO CODE, TO ELIMINATE LICENSE FEES; AMENDING SECTION 44-2106, IDAHO CODE, TO ELIMINATE LICENSE REQUIREMENTS; AMENDING SECTION 44-2107, IDAHO CODE, TO ELIMINATE LICENSE REQUIREMENTS; AMENDING SECTION 44-2108, IDAHO CODE, TO ELIMINATE LICENSE REQUIREMENTS; AND AMENDING SECTION 44-2202, IDAHO CODE, TO ELIMINATE LICENSE REQUIREMENTS.

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

SECTION 1: That Section 44-2101, Idaho Code, be, and the same is hereby amended to read as follows:

44-2101. PURPOSE — LICENSE REQUIRED — REINSTATEMENT. (1) The legislature finds that the regulation and control of those persons engaged in the business of manufacturing, selling or installing manufactured and mobile homes is necessary to protect the health and safety of the citizens of Idaho. To that end, it shall be unlawful for any person to engage in business as a manufacturer, retailer, ~~resale broker, or installer, salesman or responsible managing employee~~ without being duly licensed as provided in this chapter.

(2) ~~All applicants for original retailer or resale broker licenses are required to submit to a fingerprint-based criminal history background check of the Idaho central criminal database and the federal bureau of investigation criminal history database. Each applicant for original licensure must submit a full set of the applicant's fingerprints and the fees to cover the cost of the criminal history background check for such person along with the completed application.~~

(3) If the licensee fails to submit a completed application for renewal or to pay the renewal fee on or before the expiration date, the administrator may accept a later application for reinstatement subject to such conditions as the board may require by rule including, but not limited to, the assessment of a late fee; provided that between the license expiration date and the date of reinstatement of the license, the rights of the licensee under such license shall be expired, and during such period of expiration it shall be unlawful for such licensee to do or attempt to offer to do any of the acts of the kind and nature described in the definitions in

section 44-2101A, Idaho Code, in consideration of compensation of any kind or expectation thereof. An expired license that is not reinstated within six (6) months of the expiration date shall be automatically terminated by the administrator and may not be reinstated.

SECTION 2: That Section 44-2101A, Idaho Code, be, and the same is hereby amended to read as follows:

44-2101A. DEFINITIONS. As used in this chapter:

(1) "Administrator" means the administrator of the division of building safety of the state of Idaho.

(2) "Board" means the factory built structures advisory board established in section 39-4302, Idaho Code.

(3) "Engaged in the business" means the individual or entity buys, sells, brokers, trades, or offers for resale a manufactured or mobile home.

(4) "Installer" means a person who owns a business that installs a manufactured home or mobile home at the site where it is to be used for occupancy.

(5) "Manufactured home" or "manufactured house" means a structure as defined in section 39-4105, Idaho Code.

(6) "Manufacturer" means any person engaged in the business of manufacturing manufactured homes that are offered for sale, lease or exchange in the state of Idaho.

(7) "Mobile home" means a structure as defined in section 39-4105, Idaho Code.

(8) "Person" means a natural person, corporation, partnership, trust, society, club, association or other organization.

(9) "Place of business" refers to any physical location at which the business is lawfully conducted.

~~(10) "Resale broker" means any person engaged in the business of selling broker-owned, used, third-party owned, or other resale of manufactured or mobile homes.~~

~~(11) "Responsible managing employee" or "RME" means the person designated by the retailer, installer, manufacturer or resale broker to supervise other employees, either personally or through others.~~

~~(12) "Retailer" means any person engaged in the business of selling or exchanging new, used, resale, third-party owned or brokered manufactured or mobile homes.~~

~~(13) "Salesman" means any person employed by a retailer or resale broker for a salary, commission or compensation of any kind to sell, list, purchase or exchange or to negotiate for the sale, listing, purchase or exchange of new, used, brokered or third-party owned units, except as otherwise provided in this chapter.~~

SECTION 3: That Section 44-2102, Idaho Code, be, and the same is hereby amended to read as follows:

44-2102. ADMINISTRATION — POWERS AND DUTIES. The administrator is charged with the administration of the provisions of this chapter and shall:

(1) In accordance with the provisions of chapter 52, title 67, Idaho Code, promulgate, adopt, amend, and repeal rules for the establishment of a mandatory statewide manufactured home setup code. The administrator shall also define and prohibit any practice which is found to be deceptive.



(2) Prescribe the form and content of a new manufactured home buyer’s information and disclosure form. Unless otherwise provided by the administrator, the form shall be presented by the retailer to each purchaser of a new manufactured home, and shall be executed by the retailer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home.

(3) (a) A used unit which has been determined to be or declared by the owner to be real property under the provisions of section 63-304, Idaho Code, may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman representing a licensed real estate broker, but not a retailer, ~~resale broker or salesman~~.

(b) A used unit which has been determined to be and is carried on the tax rolls as personal property may be offered for sale, listed, bought for resale, negotiated for, either directly or indirectly, by a licensed real estate broker or a real estate salesman, pursuant to chapter 20, title 54, Idaho Code, or by a licensed retailer, ~~resale broker or salesman~~, but with respect to a licensed retailer, ~~resale broker or salesman~~ only to the extent such sale does not involve the purchase or sale of an interest in real estate.

(c) A licensed real estate broker or real estate salesman representing a licensed real estate broker pursuant to chapter 20, title 54, Idaho Code, may participate in new manufactured home sales that include real estate if the real estate broker or salesman has a valid, written agreement with a licensed retailer to represent the interests of the retailer in this type of transaction.

(4) Promulgate rules establishing a program for the timely resolution of disputes between manufacturers, retailers, ~~resale brokers~~ and installers of manufactured homes. The rules shall be consistent with the United States department of housing and urban development’s procedural and enforcement authority in 42 U.S.C. 5422(c)(12), and shall include identifying the respective responsibilities of manufacturers, retailers, ~~resale brokers~~ and installers; providing for the issuance of appropriate orders for the correction or repair of defects in manufactured homes that are reported during the one (1) year period following the date of installation; and may include an appropriate schedule of fees.

SECTION 4: That Section 44-2103, Idaho Code, be, and the same is hereby amended to read as follows:

44-2103. FEES — DEPOSIT OF FEES. (1) Fees for licensing of retailers, ~~resale brokers~~, installers, and manufacturers, ~~salesmen and RMEs~~ shall not exceed:

- (a) Retailer ~~or resale broker~~ license ..... \$500.00
- (b) Manufacturer license ..... \$500.00
- (c) Installer license ..... \$300.00
- ~~(d) Salesman license ..... \$50.00~~
- ~~(e) RME license ..... \$50.00~~

(2) All license fees collected by the division of building safety under the provisions of this chapter shall be paid into the factory built structures account established in section 39-4303, Idaho Code. The expenses incurred in administering and enforcing the provisions of this chapter shall be paid from the account.

(3) The following performance bonding requirements shall be met before the issuance of these licenses:

- (a) Manufacturer ..... \$20,000 bond
- (b) Retailer ..... \$40,000 bond
- (c) ~~Resale broker~~ ..... ~~\$30,000 bond~~
- ~~(d) Installer ..... \$5,000 bond~~

(4) The administrator is authorized to provide by rule, in accordance with the provisions of section 44-2102, Idaho Code, for the acceptance of a deposit of cash or securities in lieu of a bond in satisfaction of the bonding requirements of this section.

(5) Fees and bond requirements of this section shall be the exclusive fee and bond requirements for retailers, ~~resale brokers~~, installers, and manufacturers ~~and salesmen~~ governed by the provisions of this chapter, and shall supersede any program of any political subdivision of the state which sets fee or bond requirements for the same services.

(6) A retailer ~~or resale broker~~ must obtain a separate installer license, pay the license fee set forth in subsection (1)(c) of this section and meet the bonding requirements of subsection (3)(d) of this section in order to provide the services covered by an installer license.

SECTION 5: That Section 44-2106, Idaho Code, be, and the same is hereby amended to read as follows:

44-2106. VIOLATIONS. (1) It shall be unlawful to engage in business as a manufacturer, retailer, ~~resale broker~~, or installer, ~~salesman or RME~~ without being duly licensed by the division of building safety pursuant to this chapter, except that an individual may buy, sell, broker, trade or offer for resale up to two (2) manufactured or mobile homes, or a combination thereof, in any one (1) calendar year without being licensed under this chapter if all of the units have been properly titled in the name of that individual.

(2) It shall be unlawful for a manufacturer, retailer, ~~resale broker~~, installer, ~~salesman or RME~~ those employed by such to:

- (a) Intentionally publish or circulate any advertising which is misleading or inaccurate in any material particular or which misrepresents any of the products or services sold or provided by a manufacturer, retailer, ~~resale broker~~, or installer, ~~salesman or RME~~;
- (b) Violate any of the provisions of this chapter or any rule adopted by the division of building safety pursuant to this chapter;
- (c) Knowingly purchase, sell or otherwise acquire or dispose of a stolen manufactured or mobile home;
- (d) With respect only to a retailer ~~or resale broker~~, to engage in the business for which such retailer ~~or resale broker~~ is licensed without at all times maintaining a principal place of business located within the state.

SECTION 6: That Section 44-2107, Idaho Code, be, and the same is hereby amended to read as follows:

44-2107. PENALTY PROVISIONS. (1) Whoever shall violate any of the provisions of this chapter, or any laws or rules adopted pursuant to this chapter, or who shall refuse to perform any duty lawfully enjoined upon him by the administrator within the prescribed time, or who shall fail, neglect, or refuse to obey any lawful order given or made by the administrator, shall be guilty of a misdemeanor and shall be subject to the civil penalties established by administrative rule but not to exceed one thousand dollars (\$1,000) in accordance with the following:

- (a) Each day of such violation shall constitute a separate offense. A violation will be considered a second or additional offense only if it occurs within one (1) year from the first violation.
- (b) The same penalties shall apply, upon conviction, to any member of a copartnership, or to any construction, managing or directing officer of any corporation, limited liability company or limited liability partnership or other such organization consenting to, participating in, or aiding or abetting any such violation of this chapter.
- (c) Proceedings related to the imposition of civil penalties shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) In addition to any other penalties specified in this section, whenever any person violates the provisions of this chapter by acting as a retailer, ~~resale broker~~, or installer ~~or RME~~, without a license, the administrator may maintain an action in the name of the state of Idaho to enjoin the person from any further violations in accordance with the following:

- (a) Such action may be brought either in the county in which the acts are claimed to have been or are being committed, in the county where the defendant resides, or in Ada county.
- (b) Upon the filing of a verified complaint in the district court, the court, if satisfied that the acts complained of have been or probably are being or may be committed, may issue a temporary restraining order and/or preliminary injunction, without bond, enjoining the defendant from the commission of any such act or acts constituting the violation.
- (c) A copy of the complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other similar civil actions. If the commission of the act or acts is established, the court shall enter a decree permanently enjoining the defendant from committing such act or acts. If an injunction issued under this section is violated, the court, or the judge thereof at chambers, may summarily try and punish the offender for contempt of court.

SECTION 7: That Section 44-2108, Idaho Code, be, and the same is hereby amended to read as follows:

44-2108. ~~RETAILER AND RESALE BROKER~~ — ADDITIONAL LICENSURE REQUIREMENTS. (1) Each business office or retail sales location shall be owned or leased by the retailer ~~or resale broker~~ and shall comply with all local building codes, zoning, and other applicable land use regulatory ordinances, and:

- (a) If the location is on leased property, the retailer ~~or resale broker~~ must provide written confirmation of the term and existence of the lease, signed by the lessor; and
- (b) An exterior sign that identifies the retailer ~~or resale broker~~ by the name shown on the license must be prominently affixed to the location or the office building and be clearly visible and easily readable from the nearest major avenue of traffic; and
- (c) The retailer ~~or resale broker~~ must prominently display his license, or a true and correct copy of that license, in each location; and
- (d) The licensee must post, in a clearly visible and readily accessible location, written information concerning regular hours of business and emergency contact information.

(2) Regardless of the number of locations at which a retailer ~~or resale broker~~ engages in business, he must maintain a principal place of business that complies with the requirements set forth in subsection (1)(a) of this section, and at which the records of the business are maintained on a permanent basis.

(3) The retailer ~~or resale broker~~ must promptly notify the division of building safety, in writing, of any change in ownership, business name, location of business, mailing address or telephone numbers.

(4) For each new product sold, the retailer must provide proof, satisfactory to the board, of the retailer's current authority to sell that manufacturer's products.

(5) Failure to adhere to the requirements of this section, or any other requirement pertaining to licensure as set forth in law or rule, shall constitute grounds for the imposition of discipline up to and including revocation of licensure.

SECTION 8: That Section 44-2202, Idaho Code, be, and the same is hereby amended to read as follows:

44-2202. INSTALLATION PERMITS AND INSPECTIONS REQUIRED. (1) The owner or the installer of a mobile or manufactured home must obtain an installation tag and permit as applicable before installing a mobile or manufactured home that will be used as a residence on a building site or in a park. The installer's license must be in effect at the time of the application for the installation permit.

(2) Installation tags shall be obtained from the division of building safety and are required for each installation of a new manufactured home. The fee for the installation tag shall be prescribed in administrative rules promulgated by the administrator of the division of building safety.

(3) Installation permits shall be issued by the division of building safety or a city or county that has by ordinance adopted a building code and whose installation inspection programs have been approved by the division. All installations shall be inspected by the authority having jurisdiction for compliance.

(4) Permit fees shall be prescribed in administrative rules promulgated by the administrator of the division of building safety or as established by the city or county having jurisdiction whose installation inspection program has been approved by the division, as applicable.

(5) Immediately upon completion of the installation of a mobile or manufactured home, a licensed installer ~~or the responsible managing employee of the licensed installer~~ shall perform an inspection of the completed installation to ensure compliance with the applicable installation standard. Such inspection shall be recorded on an inspection record document

approved by the division and a copy shall be provided to the homeowner upon completion of the inspection.

## STATEMENT OF PURPOSE

### RS

Title 44, chapter 21, Idaho Code, requires a person who sells used, third-party-owned, or broker-owned manufactured homes to obtain a Resale Broker license. Title 44, chapter 21, Idaho Code, requires a person who sells new (and used or brokered) homes to obtain a Retailer license. This legislation eliminates the Resale Broker license and requires a person who sells only used homes to obtain the Retailer license. The prices of the Retailer and Resale Broker licenses are the same amount and the requirements of the licenses are substantially similar.

Title 44, chapter 21, Idaho Code, requires a person who is employed by a Retailer or Resale Broker and sells, lists, purchases, or exchanges new or used homes for a salary, commission, or other compensation to obtain a Salesman license. Title 44, chapter 21, Idaho Code, requires a person who supervises the employees of a Retailer, Resale Broker, or Installer to obtain a Responsible Managing Employee (RME) license. This legislation eliminates the Salesman and RME licenses. The Salesman and RME licenses were intended to require the employees of Retailers, Resale Brokers, and Installers to meet the same standards as their employers. The Factory Built Structures Advisory Board and Division of Building Safety (Division) intend to meet that objective by holding Retailers, Resale Brokers, and Installers responsible for the conduct of their employees.

Idaho Code section 44-2101(1) requires applicants for original Retailer or Resale Broker licenses to submit a criminal history background check. This legislation eliminates the background check. The Division has not found the background check to be effective in deterring unscrupulous individuals from engaging in the profession. Because the background check is required only upon initial (not renewal) application, it does not protect against future criminal violations of licensees. Additionally, the Division does not have record of any application denial based on the findings of such a background check. Further, the background check inhibits the rehabilitation of persons with criminal backgrounds seeking Retailer or Resale Broker licenses.

### FISCAL NOTE

This legislation will not have a fiscal impact on any general or federal funds. This legislation will have a negative fiscal impact of approximately three thousand five hundred dollars (3,500) over the course of a fiscal year on the factory built structures dedicated fund due to the elimination of revenue generated by fees for the eliminated licenses.

#### CONTACT

Name: Ron Whitney  
Agency: Division of Building Safety  
(208) 332-7150

**DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).**

**Statement of Purpose / Fiscal Note**

**H \_\_\_\_\_**

# FACTORY BUILT STRUCTURES ADVISORY BOARD

## Agenda Item No. 05b      Reduction of Fees for Manufacturers of Modular Buildings

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**PRESENTER:**      Ron Whitney, Deputy Administrator

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**OBJECTIVE:**      Reduce modular building permit fees.

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**ACTION:**      Review and approve proposed legislation allowing the Board to reduce modular building permit fees.

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**BACKGROUND:**      From the November 8, 2018, special Board meeting minutes: “In Idaho Code § 39-4303(1)(a) Fees, Table 1-A references the 1997 Uniform Building Code (UBC). Although the 1997 UBC is no longer available, statute still supersedes rule. Therefore, to ask for a temporary rule, a change must first be made to the statute to remove the reference to the table and code. The Board has two options. 1) Go through the normal process to change the statute with the earliest it would go before the legislature is in 2020. 2) Find a legislator willing to sponsor the statutory change. Chairman Alley offered to find a legislator. Deputy Administrator Whitney proposed taking the UBC reference and table out of statute and replace it with the verbiage ‘... the fee established in rule’. The earliest the change would be in effect would be July 1, 2019. The Board agreed to pursue the statute change through a legislator.” The Board did not pursue the statute change through a legislator in 2019, so the only option is to go through the normal legislative process in 2020.

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### **PROCEDURAL HISTORY:**

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**ATTACHMENTS:**      Idaho Code § 39-4303 legislative proposal, and IDAPA 07.03.03.029.01

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IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO.

BY

AN ACT

RELATING TO MODULAR BUILDINGS; AMENDING SECTION 39-4303, IDAHO CODE, TO ALLOW REDUCTION OF THE MODULAR BUILDING PERMIT FEES PROVIDED IN RULE.

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

SECTION 1: That Section 39-4303, Idaho Code, be, and the same is hereby amended to read as follows:

39-4303. FEES. (1) The following fees, ~~as provided by board rule~~, shall be paid by the manufacturer of a modular building:

(a) Per building, one (1) building permit, plan review and inspection fee for structural, plumbing, electrical and HVAC, based upon the modular building permit fee schedule provided in rule ~~1997 Uniform Building Code Table 1-A~~, plus ninety dollars (\$90.00) and two and one-half percent (2.5%) of the plumbing, electrical and HVAC installation costs.

(b) The division may charge a one hundred dollar (\$100) insignia fee in instances where building permit fees are not charged for modular buildings.

(2) All fees collected by the division under the provisions of this chapter shall be paid into the factory built structures account, which is hereby created in the dedicated fund. The expenses incurred in administering and enforcing the provisions of this chapter shall be paid from the account. The fees set forth in subsection (1) of this section and the modular building permit fees provided in rule shall be the exclusive fee requirements applicable to modular buildings governed by the provisions of this chapter, and shall supersede any program of any political subdivision of the state which sets fee requirements for the same inspections or services.



## STATEMENT OF PURPOSE

### RS

This legislation will allow the Division of Building Safety and Factory Built Structures Advisory Board to pass permit fee savings on to modular building manufacturers through a reduction of the permit fees provided in rule. The factory built structures dedicated fund balance has been growing at a greater rate than necessary to administer the modular building program. This legislation will allow the Division and Board to propose rules to curtail the ongoing buildup of funds in the factory built structures dedicated fund while retaining a reserve balance that is sufficient to fund the modular building program in excess of two (2) years. The Division and Board were unable to accomplish the permit fee reduction through rulemaking during the past year because Idaho Code section 39-4303(1)(a) requires modular building permit fees to be “based on the 1997 Uniform Building Code Table 1-A.”

### FISCAL NOTE

This legislation will not have a fiscal impact on any general, federal, or dedicated funds. The rulemaking that results from this legislation will have a negative fiscal impact of approximately sixty one thousand dollars (\$61,000) over the course of a fiscal year on the factory built structures dedicated fund due to the reduction of modular building permit fees.

### CONTACT

Name: Ron Whitney

Agency: Division of Building Safety

(208) 332-7150

**DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).**

**05. Distribution of Approved Copies.** An approved copy of the plan submittal shall be returned to and retained by the manufacturer and a copy shall be retained by the Division. When necessary, an additional copy shall be distributed for use by third party or contract inspectors. (3-26-08)

**06. Proprietary Information.** All material submitted by the manufacturer in the form of design plans, engineering data, test results, and other design information relating to their application will be considered proprietary information and will not be released for public scrutiny except when so ordered by a court of competent jurisdiction. (3-26-08)

**07. Revisions to Approved Modular Building Plans.** Where the manufacturer proposes to revise his submitted designs, or Division adopted rules or codes are amended to necessitate such a change, the manufacturer shall submit revised plans for examination and approval. (3-26-08)

**08. Application Provisions.** The provisions of this section shall apply only to plans for work which will be accomplished at the place of manufacture. (3-26-08)

**029. FEES.**  
 The following fee schedule shall be applicable for the functions cited: (3-26-08)

**01. Modular Building Permit Fees.** Other than as herein specified in this section, the permit fee schedule for Modular Buildings shall be as provided herein in Table 1-A plus ninety dollars (\$90) and two and one-half percent (2.5%) of the plumbing, electrical, and HVAC installation costs. The determination of value or valuation shall be based on the total value of all construction work for which a permit is issued.

<b>1997 UNIFORM BUILDING CODE - TABLE 1-A – MODULAR BUILDING PERMIT FEES</b>		
<b>TOTAL VALUATION</b>	<b>=</b>	<b>FEE</b>
\$1 to \$500	=	\$23.50
\$501 to \$2,000	=	\$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	=	\$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	=	\$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000
\$50,001 to \$100,000	=	\$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	=	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	=	\$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 and up	=	\$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof

(3-26-08)

**02. Other Inspections and Fees.** (3-26-08)

# FACTORY BUILT STRUCTURES ADVISORY BOARD

## Agenda Item No. 06                      Number of Units from Out-of-State Retailers/ Installers Unlicensed in Idaho

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**PRESENTER:**            Mike Davis, Lead Manufactured Home Inspector

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**OBJECTIVE:**            Provide a statistical report on units coming into Idaho from out-of-state  
retailers/installers unlicensed in Idaho.

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**ACTION:**                Informational

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**BACKGROUND:**        For the May 2019 Board meeting, Board Member Mike Hampton  
requested, and Lead Manufactured Home Inspector Davis offered a report  
with the number of homes sold in Idaho by non-Idaho licensed out-of-state  
retailers, as well as homes installed in the state of Idaho by non-Idaho  
licensed out-of-state installers.

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**PROCEDURAL  
HISTORY:**

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**ATTACHMENTS:**    No Documentation

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# FACTORY BUILT STRUCTURES ADVISORY BOARD

**Agenda Item No. 07**

**Administrator Report**

**PRESENTER:** Chris L. Jensen, Administrator

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**OBJECTIVE:** Provide an overview of the Division's current activities.

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**ACTION:** Informational

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**BACKGROUND:** This topic is addressed at all regularly scheduled Factory Built Structures Advisory Board meetings.

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**PROCEDURAL HISTORY:**

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**ATTACHMENTS:** No Documentation

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# FACTORY BUILT STRUCTURES ADVISORY BOARD

**Agenda Item No. 07a**

**Financial Report**

**PRESENTER:** Chris L. Jensen, Administrator

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**OBJECTIVE:** Review the Factory Built Structures Advisory Board's Financial Report.

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**ACTION:** Informational

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**BACKGROUND:** This topic is addressed at all regularly scheduled Factory Built Structures Advisory Board meetings.

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**PROCEDURAL  
HISTORY:**

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**ATTACHMENTS:** Financial Report

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**Division of Building Safety**  
**FACTORY BUILT STRUCTURES - 0229-28**  
 Fiscal Year 2019 Financial Statements  
 As of 05/31/2019

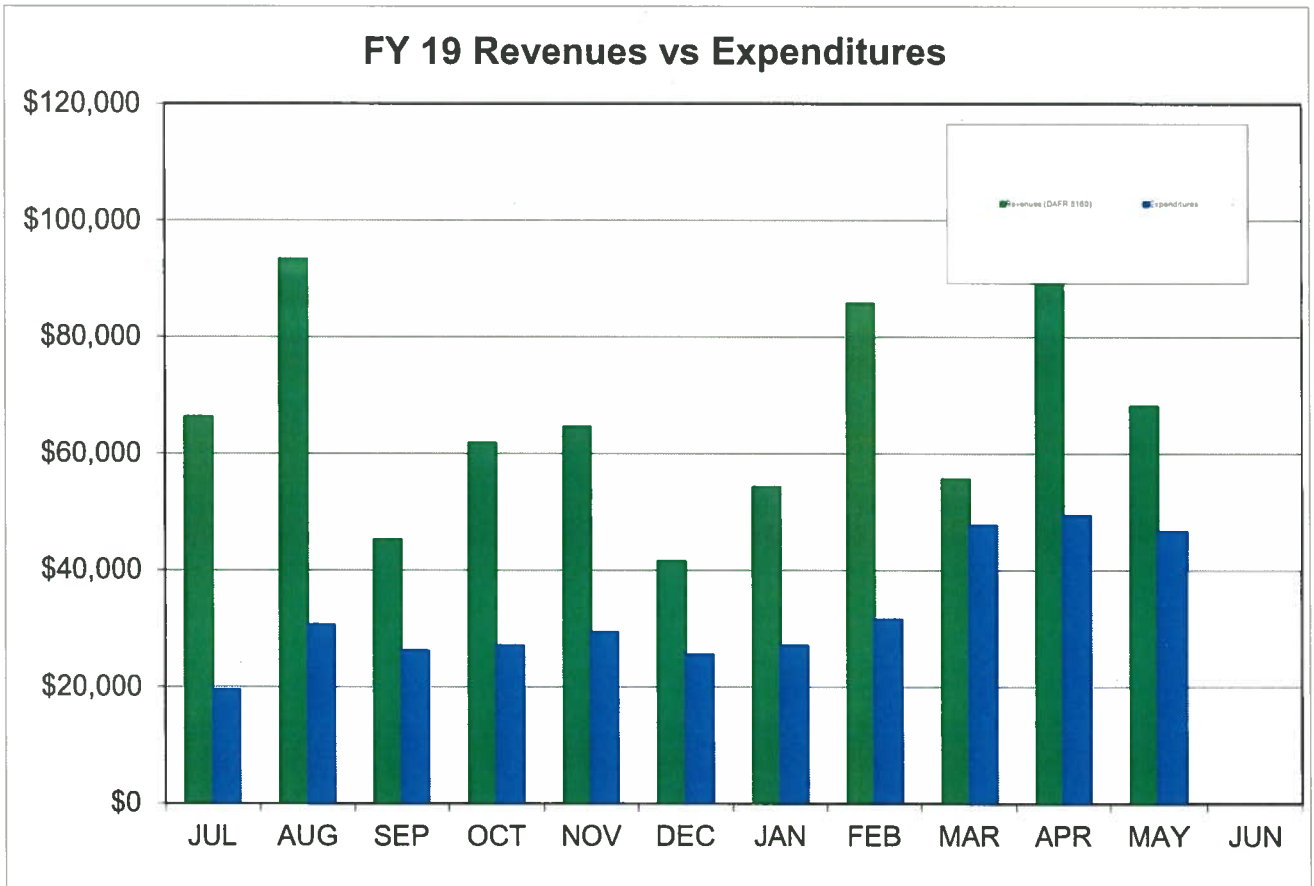
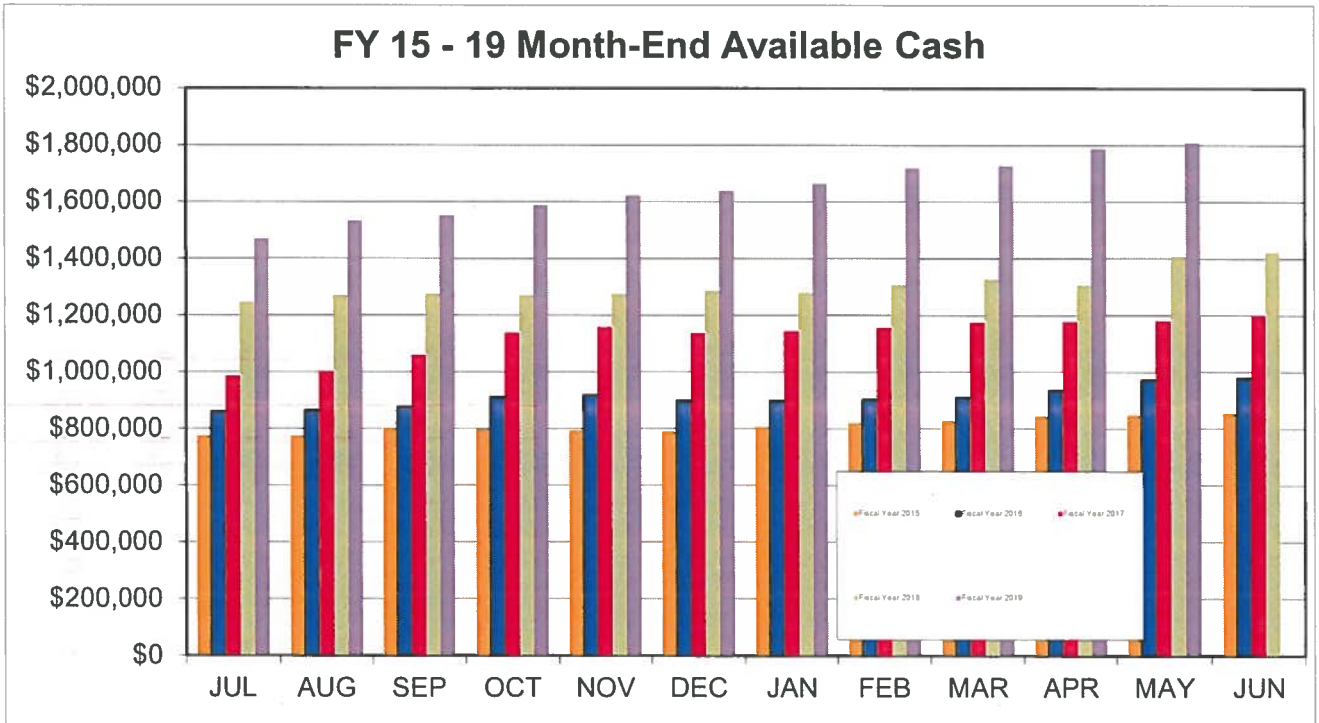
Statement of Revenues and Expenditures

Class	Budget	Fiscal Year To Date	YTD as a % of Budget	Remaining Budget	Projected for Remainder of Year	Projected Year End Totals	Projected Total as a % of Budget
Revenues:	490,700	746,250	152.1%	(255,550)	53,316	799,567	162.9%
Expenditures							
Personnel:	380,600	275,841	72.5%	104,759	22,987	298,828	78.5%
Operating:	71,200	52,029	73.1%	19,171	1,974	54,003	75.8%
Capital:	38,900	32,668	84.0%	6,232	6,232	38,900	100.0%
Total Expenditures	490,700	360,538	73.5%	130,162	31,193	391,731	79.8%
Net for FY 2019	-	385,712			22,123	407,836	

Statement of Cash Balance

July 1, 2018 Beginning Cash Available	Fiscal Year to Date Revenues	Fiscal Year to Date Expenditures and Encumbrances	Other Changes in Cash	Available Cash as of May 31, 2019	Projected Change in Cash for Remainder of Year	Projected Year End Available Cash
1,422,024	746,250	(360,538)	205	1,807,941	22,123	1,830,064

# FACTORY BUILT STRUCTURES - 0229-28



# FACTORY BUILT STRUCTURES - 0229-28

