



# CAPITOL REVIEW

## A WEEKLY LEGISLATIVE REPORT

ASSOCIATION MANAGEMENT GROUP : RICK WAITLEY / ROGER BATT / BENJAMIN KELLY  
55 SW 5TH AVENUE, SUITE 100 MERIDIAN, ID 83642 PH: 208-888-0988 FX: 208-888-4586

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### FRESHMAN CLASS

Legislators come from a wide variety of backgrounds. Here is a overview of some of the careers that this freshman class of 26 individuals brings to the Idaho Legislature.

Attorney	1
College Professor	1
Conservationist	1
Engineer	2
Farmer/Rancher	6
Firefighter	1
Homemaker	1
Insurance Provider	1
Journeyman Wireman	1
Nuclear Facility Training Manager	1
Planner	1
Professional Speaker	1
Real-estate Agent	1
Security & Law Enforcement	1
Small Business Owner	5
Trial Court Administrator	1
University Administrator	1

Many of the new legislators are retired or semi-retired from their fulltime careers. This assortment of backgrounds helps to provide strong insight into many aspects of society and many issues.

### HARVEST EQUIPMENT TAXATION

Last year a bill that allowed hop producers to exempt their hop production or harvest machinery from property taxation was supported by the agriculture industry and passed. At that time, all production equipment used in the harvest of a commodity was exempt by statute, but there were county assessors that were inconsistently evaluating harvest equipment for hops. Through the summer more examples of inconsistencies surfaced which led to a tour with legislators, the Idaho State Tax Commission and county assessors to provide a better understanding of what harvest equipment is and the different methods used to harvest a diverse number of commodities.

This culminated in H87 for the 2019 Legislative Session that clarifies that all agricultural operations be assessed similarly for farm equipment and machinery.

Though many counties in Idaho have a long history of accurately and equitably assessing harvest equipment, there have been a number of assessors that have rendered evaluations contrary to state statute. They also inconsistently assessed harvest equipment for some commodities and not for others. These improper assessments have been in contrast to the guidelines most counties have followed on harvesting equipment. The legislation will also provide legislative intent language to give guidance for an assessor when they may be in doubt. H87 addresses a number of commodities that have been assessed unpredictably. It goes on to state that there may be other types of machinery or equipment used exclusively for the production or harvest of agricultural commodities that should have received this exemption but were denied the exemption in the past. The most important clarification in H87 is that the definition of "harvest" includes all activities necessary for a raw agricultural commodity to be put into its most basic salable form. The definition includes on-farm storage of the commodity before it is first handled in the primary channels of trade. H87 passed the House Revenue & Taxation Committee this week and will be voted on by the House at the beginning of next week.

### ADMINISTRATIVE RULES REVIEW

Food Producers of Idaho hosted two separate presentations on rules and the process by which they are confirmed or denied. Idaho is only one of a few states that permits their legislature to review rules. Once legislation is passed and becomes law, various state agencies must enact rules to comply and to operate within the confines of that new law. These rules are either written solely by the agency or "negotiated rule" making meetings are held to gain consensus from industry, the general public or interest groups. Once a draft rule is created, the legislature spends much of January hearing from state agencies and reviewing rules. A new rule has to be approved by either the House or Senate committee that deals with the specific topic. The one oddity of the process is that a Senate committee can hear a rule and approve it, while a House committee can hear the same rule and reject it, and the rule still goes into effect even though both bodies did not agree.

H65 has been proposed to try and change the fact that one body in the legislature can approve a rule and the other can reject the rule, and the rule still goes into effect. Dennis Stevenson, Department of Administration, shared with FP members the background and history on how the current process of rulemaking is handled. The sponsor of H65, Rep. Mike Moyle, reviewed the reasons he would like to see the process changed. Rep. Moyle would modify the language so a committee would have to propose a concurrent resolution approving each rule, which would then have to be approved by both the full House and full Senate. This would mean the House and Senate would have to hold more votes on separate resolutions, rather than voting on a single omnibus resolution approving all the rules at the end of the session. Rep. Moyle explained that he will develop a new piece of legislation that is shorter and cleaner. The plan is to leave both pieces of legislation in place and allow the members of the legislature to give their input on the future of the rulemaking process.

### WATER BILLS

During this past week, several water bills were introduced that would affect geothermal wells and ground water users.

H67 would allow the Director of the Department of Water Resources more flexibility to exempt new geothermal water rights if certain conditions are met. Those conditions note that the geothermal water right will not detrimentally affect existing water rights; the proposed use of the well will not diminish the temperature of or artesian pressure of the low temperature geothermal aquifer; and there is no economically viable source of water having a bottom temperature of eighty-five degrees or less in a well available. This bill was recently printed and sent to the House Resources and Conservation Committee.

S1041 relates to the operation and powers of ground water districts. Ground water districts exist principally to protect their members' water rights from curtailment by developing and implementing mitigation plans. Those mitigation plan costs are assessed to the district members. S1041 meets two operational needs of ground water districts. First, ground water district assessments are levied once per year in accordance with the schedule set forth in Idaho Code to meet projected district expenses. On rare occasions, actual expenses may occasionally exceed projections which would create a need to levy a special assessment to cover all of the ground water district's expenses. Additionally, S1041 would create consequences for ground water users that are not complying with mitigation plans. Some ground water users have willfully disregarded their responsibilities under ground water district mitigation plans. Those plans have been approved by the Idaho Department of Water

Resources. An amendment would enhance the ability of ground water districts to enforce compliance with mitigation plans approved by the department.

### INMATE LABOR & TRAINING

A measure to expand inmate farm labor programs to any agricultural operation has made its way back to the legislature. In recent years, legislation has been passed that allows inmate labor only in cases involving production, harvesting or processing of perishable agricultural products. S1045 seeks to provide for inmate trainee participation in work training programs offered through the Idaho Correctional Industries program. The bill will offer training stipends for participants in the programs but also specifies that inmate trainees are not employees of the Idaho Department of Corrections and are not entitled to worker's compensation or unemployment compensation. Included are conditions for rules regarding inmate trainee safety and also changes to the language of the current law to make clear that the inmates are in job-training programs and are not employees of either the state or any agricultural operation.

Last year a similar bill was passed by the Senate but was amended in the House, and the Senate opted not to concur with the amendment. The bill sought to remove the word "perishable" from agricultural products that could be harvested by inmate labor allowing inmates to work for private employers in the production, harvesting and processing of all Idaho agricultural, horticultural, vinicultural, forestry and bee products. This would have allowed more opportunities for inmate labor. On the house floor, the bill was amended to entitle an inmate to worker's compensation. This would have forced agricultural producers to provide worker's compensation for inmates. The amended bill also mandated that the inmate be classified as an employee of the agricultural employer.

Senator Patti Ann Lodge was the sponsor of last year's bill and is the sponsor of S1045. The new proposal opens opportunities for inmate participation through multiple industries but also adds a significant focus to the goal of reducing recidivism through job training. With the current high recidivism rates in Idaho, Lodge makes the argument that giving inmates an opportunity to get back into a work environment will both give them skills they'll need to succeed as law-abiding citizens, as well as allow them to earn some money toward restitution, court costs and re-entry into society.

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