



# CAPITOL REVIEW

## A WEEKLY LEGISLATIVE REPORT

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### A Weekly Legislative Report

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#### GOVERNOR'S EMERGENCY DECLARATION

The Governor held a press conference Friday morning and announced **he has signed an emergency declaration regarding coronavirus. Idaho still has had no positive tests for coronavirus**, state epidemiologist Dr. Christine Hahn said and more than 100 people have been tested. Little said the declaration increases state access to critical supplies; activates Idaho's emergency operations plan, including funding; provides him flexibility in expediting contracts and supplies; and expedites the renewal process for certification for nurses, such as retirees returning to work. Right now the focus is to make sure Idaho is as prepared as possible.

#### HEMP UPDATE

The Hemp legislation (S1345) was assigned to the House State Affairs Committee on Tuesday, March 10, and the hearing began at 9 AM with Sponsor Rep. Caroline Troy providing the background and opening comments. Less than five testimonies were heard that day before the committee adjourned to be on the Floor at 10 AM. The hearing continued the next day starting at 8 AM and lasted for a couple of hours. While a variety of motions and comments were made by committee members, **S1345 was held in committee on a vote of 7-8. The measure is dead for the 2020 legislative session.**

#### SALES TAX ON DATA CENTER EQUIPMENT

It is no secret that the connectivity throughout Idaho is less than desirable in many areas of the state. This results in some frustration on the part of those who live and work in remote locations. Governor Little initially addressed this issue **by appointing a Broadband Task Force to examine and explore solutions on how to address this issue.** H521 was introduced which would remove sales tax on the equipment that goes into data centers. **Rural Idaho needs more facility sites throughout the state.** While 30 other states have removed this requirement it still remains in Idaho which presents some economic

challenges. Idaho is very well-situated to attract these companies if the tax policy changes outlined in H521 become law. Data centers are engines of economic growth, and studies have shown that data centers result in significant new revenues to state and local governments regardless of the forgone revenue in sales tax on their equipment. Data centers require considerable investment in construction both initially, as well as ongoing as the centers expand, **which has a tremendously positive impact on the local economy.** The measure had some resistance in the House and passed by a vote of 37-21-12 on February 28 and is now being considered by the Senate.

#### DISTRACTED DRIVING

S1314 which would have **established continuity for the use of electronic devices** while driving was supported in the Senate by a vote of 30-5-0. However, when the measure reached the House there was discussion of adding an exemption provision for agriculture. A new bill (H614) surfaced that included S1314 points of continuity ordinances throughout Idaho and restrictions on use of handheld electronic devices but added a new section that follows: *The use of a mobile electronic device in a farming or ranching operation to **assist in the movement of farm tractors, farm equipment, and implements of husbandry from one farm operation to another.***

#### BUDGET SETTING

The budgeting process in Idaho has several checks and balances before a bill makes it to the floor of either House for a vote. JFAC (Senate Finance and House Appropriations) is a joint committee that works very early and hard throughout the session. Each appropriation bill is sent to the floor of the respective House with a sponsor that understands the financial request for that specific agency. This year, an unusual circumstance has happened due to the specific agency budgets that were voted against. The budgets for the **Idaho Soil & Water Conservation Commission, Secretary of State, State Treasurer and the Attorney General were all initially voted**

**down.** The bills were returned to JFAC for modification. Co-chairman Youngblood explained this week that when the measure is returned the bottom line budget amount has to be adjusted by a minimum of \$100 up or down from the original recommendation and then returned for a vote. **The procedure is not always about money but can be more about philosophy** which was the case in a few of these budgets. The legislature is quietly but sternly sending a message to the respective agency that they are “watching some procedures”.

### DYED DIESEL

Idaho Code prohibits the use of dyed and other untaxed fuels on Idaho highways, but lacks a system of that allows the state to enforce the provisions. Currently, enforcement on dyed fuel that takes place in Idaho is done by the federal government through the Internal Revenue Service. S1379a is **an attempt to set up a simple system of state-based inspection and enforcement of dyed fuel for commercial vehicles** operating on Idaho highways. The Idaho Trucking Association has proposed various versions of S1379a in the past few years. The current version of S1379a would allow the Idaho Transportation Department and Idaho State Police **to conduct a sight inspection of commercial vehicles’ gas tanks for dyed fuel at weigh stations, ports of entry, safety inspections or if pulled over for another offense.** S1379a will also prevent law enforcement from inspecting portable fuel tanks and slip tanks that may be in a motor vehicle. Food Producers of Idaho has seen various versions of this bill and have opposed those bills in previous years because of the implications and onerous requirements that they could have had on agricultural producers. Agriculture supports S1379a because of the minimal requirements and that tanks can only be inspected if pulled over for another offense.

### VALUATION OF PROPERTY

**H590 would establish more uniform and fair provisions of Idaho law regarding the valuation of property for property tax purposes.** Under current law, assessors can value business property using income or market approaches, as well as the cost approach. The income and market approaches often result in an estimate of value for the entire business, including goodwill and any other intangible property associated with the business. Although Idaho Code provides that such intangible property is exempt from taxation, it is difficult to determine that value as part of the ongoing business value in a way that results in the value of only the tangible assets. Normally, assessors do not attempt to value the business. For businesses such as franchise restaurants, car dealerships, and many others, there is no effort to use the income from the business or otherwise to value the business

operation and then deduct intangible value. For centrally assessed property, Idaho Code provides that owners of such property can elect to require the use of a valuation method that does not include intangible or business value in the first place. That method is usually a cost approach. The cost approach method is also mostly used for business personal property, where the current depreciated cost of the property is determined using methods and tables provided by the Idaho Tax Commission. For residential property, appraisers typically rely on the cost and market approaches, but the market approach is often difficult to apply where properties that have sold are not truly comparable to the subject property, and subjective adjustments have to be made to make them more comparable as a measure of value for the subject property. H590 is intended to **promote clarity and uniformity by amending Idaho Code to provide that the cost approach shall establish a ceiling on value.** This recognizes a basic principle of appraisal that no reasonable buyer of property would pay more for that property than it would cost to build or acquire the same property. Since this method is used for most commercial personal property and real property improvements, it is equitable to require its use as a maximum value for all property owners.

### INCARCERATED LABOR UPDATE

H373, which was sponsored by Rep. Doug Ricks, has passed both the House of Representatives and the Senate and **was signed into law this week by the Governor.** More significantly, the measure did not receive one vote against it through the whole process. **H373 opens opportunities for inmate participation through multiple industries including agriculture** but also adds a significant focus to the goal of reducing recidivism through job training. These jobs will focus on a number of occupations where the current workforce is not filled by the general public.

### LEGISLATIVE SESSION CLOSURE

We have heard rumblings from various sources that the end of the legislative session may be in sight. Due to recent events from the past week and all the closures caused by the coronavirus, the legislature has grabbed another gear and began to fast track legislation to get closer to the finish line. Before the legislature can adjourn for the year it is required to set a balanced budget.

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