



# CAPITOL REVIEW

## A WEEKLY LEGISLATIVE REPORT

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### A Weekly Legislative Report

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#### HEMP BILL BECOMES LAW

H126 passed both Houses and received the governor's signature over the weekend. It will allow Idaho producers to grow the commodity and diversify their portfolios. **H126 includes an emergency clause making it effective immediately upon signing**, but the process of setting up the new regulation system for industrial hemp will likely take long enough that the **first hemp growing season in Idaho will be in 2022**. Prior to H126, it was legal to sell hemp-derived products in Idaho, as long as they contained no amount of THC. Businesses selling CBD, or cannabidiol - an extract from hemp that's used to treat various ailments, such as pain, anxiety and movement disorders - opened across the state after the 2018 Farm Bill legalized hemp at the federal level. Treasure Valley CBD retailers have said that they do not expect to be immediately impacted by the new Idaho law, but there may be benefits in the near future. Most hope that someday they will be able to buy their products from local growers and processors. Before the passage of H126, Idaho law made no distinction between industrial hemp and marijuana.

#### IDAHO CONSTITUTIONAL AMENDMENT

SJR102 passed the House of Representatives and is headed to the ballot boxes in 2022. On a 54-15-1 vote, the House passed a proposed constitutional amendment **allowing the Legislature to call itself back for a special session under certain conditions**. The legislation previously passed the Senate on a 24-11 vote. It now goes to Idaho voters in the 2022 general election for final approval. The Idaho Constitution currently gives the governor the sole authority to call a special session. SJR102 would amend the Constitution and allow lawmakers to call themselves back for a special session, **upon written petition by 60% of the House and Senate membership**. The special session would be limited to the subject matter outlined in the written petition. House and Senate Republicans said this was their top priority for the 2021 session, along with several bills aimed at curtailing the governor's emergency powers and readjusting the balance of power between the

legislative and executive branches. SJR102 also includes language that is aimed at maintaining the legislature's status of a part-time, citizen legislature. Constitutional amendments have been common the last few elections. During the 2020 election, there was a constitutional amendment that set the legislative districts at 35. It passed with over 750,000 votes being cast for one side or the other of the measure.

#### BEER AND WINE LEGISLATION

H232 passed the House and Senate and was signed into Law on April 21. A signing ceremony took place with Governor Little and members of the Idaho wine and beer industries. **H232 is the result of a partnership between the Idaho Wine Commission, Idaho Brewers United and the Idaho Hop Commission**, and took three years to reach an agreement.

The law passed by the Legislature in 1988 has taxed and considered strong beer (over 4%) as wine. Since 1994 the Idaho Wine Commission has been receiving strong beer excise tax funds to promote the Idaho wine industry. H232 takes about **\$146,000 in strong beer excise taxes from the Idaho Grape and Wine Commission budget and reallocates it to the Idaho Hop Commission**. The lost funding from the Idaho Grape and Wine Commission is replenished through increasing the existing percentage of the wine excise tax based solely on wine that is produced and sold in Idaho. Based on 2019 numbers that equates to about \$144,000. Representative James Holtzclaw and Senator Carl Crabtree carried the Legislation on the House and Senate floors.

#### SEPARATION OF POWERS

Last Friday, Governor Brad Little announced in a statewide live stream that he had **vetoed S1136a and would be vetoing H135a**, which he followed through with Monday. The "separation of powers" bills are the Senate and House versions that had been chosen among many other iterations to limit the Governor's emergency powers and give more say to the Legislature in declared emergencies. Monday, the Senate fell one vote short of overriding the Governor's veto of S1136a and that bill can no longer be

considered. Wednesday, the House did override the Governor's veto on H135a with well over a two-thirds majority, **therefore the bill must go to the Senate to be voted on and two-thirds must vote to override for it to become law.**

Throughout 2020 and leading into our current legislative session, there has been criticism as to how Governor Little has responded to the Coronavirus. During the Special Session last August, several recommendations by the legislature were proposed but did not get full traction due to what the legislature may or may not have been able to legally address at that time. **Legislators were seeking proposals that would have balanced the powers between the legislative and executive branches of government as it relates to emergencies.**

Prior to any proposals receiving legs at the beginning of the 2021 Legislative Session, Food Producers of Idaho let their position be known that they had **real concerns with legislation that would remove or modify Idaho emergency declarations for natural disasters and the unintended impacts it would have on Idaho's farmers, ranchers, and rural communities.** Emergencies and disasters require immediate responses, with the ability of responders and government to be nimble, flexible, and direct, with minimal red tape. These unfortunate circumstances call for strong leadership, and clarity as to where the leadership must originate. Despite some of the successes in responding to the challenges of 2020, it is clear, that reform was needed in some areas of Idaho's responses to covid, but not in natural disasters. Concerns have continued to intensify that

the proposed bills would hinder or prematurely end emergency disasters and establish additional legislative requirements that relate to emergency declarations that would inhibit Idaho's ability to respond to current and future emergencies. The table below reflects a list of the current open emergency declarations in Idaho.

Governor Little's veto justifications included that they would **impair his ability to assemble and instruct the National Guard to deal with emergencies, the state's ability to receive federal disaster aid and more.** In his estimation the entire legislative body would have to convene in Boise to extend an emergency declaration requested by one county for months-long flooding and would be totally impractical and costly. He also argued that they violate the Idaho Constitution in multiple sections. The Idaho Constitution prohibits the Legislature from performing executive duties. Declaring and responding to emergencies are core executive functions defined by the Idaho Constitution and the U.S. Constitution. Little reinforced his veto message with support messages from every living former Idaho governor.

When Mother Nature is one of your business partners, you are keenly aware of potential disasters ranging from fire to flood to drought to blizzards. Losing or ending a declaration prior to getting the emergency addressed could prevent farmers and ranchers from receiving needed aid, whether in the form of accessing available funding or feed, exchanging water rights to irrigate and bring in a crop, fixing washed out roads after a flood, or apply for low interest loans.

**Open Emergency and Major Disaster Declarations**

DISASTER INCIDENT		DECLARATION	PROGRAM	DESCRIPTION (For open emergencies)
START	END	DATE	STATUS	
12/16/2015	12/27/2015	2/1/2016	OPEN	Drought conditions, very dry fuels and high winds have created perilous situations arising from the wildfire in Bonneville County, Idaho.
2/5/2017	2/27/2017	4/21/2017	OPEN	Extraordinary flooding caused by rapid snowmelt and precipitation have created perilous situations in Bingham, Cassia, Elmore, Franklin, Gooding, Jefferson, Jerome, Lincoln, Minidoka, Twin Falls, and Washington Counties, Idaho.
3/6/2017	3/28/2017	5/18/2017	OPEN	Extraordinary floods, landslides, and avalanches caused by heavy rains and snowmelt have created perilous situations in Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Shoshone, Idaho, Lewis, and Valley Counties, Idaho.
5/6/2017	6/16/2017	8/27/2017	OPEN	Extraordinary river flooding caused by heavy rains and snowmelt has created perilous situations in Ada, Canyon and Gooding Counties, Idaho.
3/29/2017	6/15/2017	10/7/2017	OPEN	Extraordinary spring flooding caused by warming temperatures and snowmelt have created perilous situations in Blaine, Camas, Elmore, Custer and Gooding Counties, Idaho.
4/7/2019	4/13/2019	6/12/2019	OPEN	Extraordinary flooding and soil saturation have created perilous situations in Adams, Idaho, Latah, Lewis and Valley Counties, and the Nez Perce Reservation, Idaho.
1/20/2020		3/13/2020	OPEN	Emergency response and protection activities resulting from a statewide outbreak of novel coronavirus.
1/20/2020		4/9/2020	OPEN	Major Declaration for FEMA in response to a statewide outbreak of novel coronavirus.

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