



ASSOCIATION MANAGEMENT GROUP

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◆ 2016 Client Legislative Summary ◆

The 2nd Regular Session of the 63rd Idaho Legislature convened on January 11 and adjourned on March 25 around noon. The legislature had met for a total of 75 days. During that time there were 831 pieces of legislation introduced with both houses passing 379 bills. During the 2016 Session, AMG lobbyists attended all meetings of the Ag Lobbyist group (each Tuesday) and represented clients at Food Producers of Idaho meetings (each Wednesday). Food Producers of Idaho hosted invited legislators for lunch each Wednesday. These lunches provided an opportunity to get to know legislators and for legislators to gain a better understanding of Idaho agriculture and the groups involved in our industry. Benjamin Kelly participated in the Idaho Association of Commerce and Industry (IACI) weekly legislative meetings representing Idaho Cooperative Council.

The groups we lobbied for during the 2016 Session included:

Rick Waitley/Benjamin Kelly/Nic Gibson:

Food Producers of Idaho

Idaho Alfalfa & Clover Seed Growers Assn.

Idaho Cooperative Council, Inc.

Idaho Hay and Forage Association

Idaho Honey Industry Association

Idaho Weed Control Association

Nezperce Prairie Grass Growers Assn.

Northwest Farm Credit Services

Roger Batt:

Idaho Eastern Oregon Seed Association

Idaho Grape Growers & Wine Producers Comm.

Idaho Heartland Coalition

Idaho Mint Growers Association

Western Equipment Dealers Association

Idaho Seed Pesticide Council

Pacific Seed Association

Sawtooth Law Offices

Treasure Valley Water Users Association

AG ECONOMIC OUTLOOK: On January 8, University of Idaho agricultural economist Garth Taylor gave the annual agriculture forecast to lawmakers for 2015. The forecast looked at the past year, made conclusions for the 4th quarter in the calendar year for budgeting purposes and gave lawmakers a good handle on how 2015 fared for agriculture. Projected farm cash receipts in Idaho were down 9% compared to 2014 and farm cash receipts in Idaho totaled \$7.87 billion, down \$800 million from 2014. With the last five years of increases in Idaho farm cash receipts, 2015 saw the first decrease and Idaho's net farm income totaled a projected \$1.34 billion, far below the record of \$2 billion in 2013.

- Milk: Revenue totaled \$2.3 billion in 2015, down 27% from 2014's record total of \$3.2 billion
- Cattle and Calves: Revenue reached a record \$2.2 billion in Idaho in 2015, 8% more than in 2014
- Wheat: Revenue dropped 17% to \$506 million
- Hay: Receipts totaled \$485 million, 12% lower
- Potato: Revenue was 3% lower at \$871 million.
- Sugarbeets: Cash receipts increased 19% to \$300 million
- Barley: Revenue rose 7% to \$286 million

Total crop revenue was \$3 billion in 2015, down 3% from 2014, and livestock revenue fell a little farther, down 13% and totaled \$4.8 billion. Farm exports were off significantly because of a strong U.S. dollar and huge grain stocks, and Taylor predicted 2016 is not likely to be much better than 2015 for U.S. farmers.

That being said, Taylor emphasized the importance of Idaho agriculture's contribution to the state as a whole. The gross state product from farming has grown at an average rate of 4.7% since 1997, in contrast to the entire Idaho gross state product only growing at 2.9%. Furthermore, agribusiness accounts for 20% of total sales in Idaho, 14% of jobs, and 16% of the gross state product. Another high point included the fact that production agriculture is one of the fastest growing segments of Idaho's economy and that agribusiness is the largest business in the state of Idaho.

AG ALL STARS: Industry leaders from around Idaho gathered Wednesday, January 13, to recognize 75 Idaho legislators who had a voting record during the 2015 Legislative Session in favor of Food Producers of Idaho policies. These policies are related to agriculture, natural resources, water, transportation, and taxes. Those recognized with this honor include:

Senators

Steven Bair *
Clifford Bayer
Bert Brackett *
Bart Davis
Lori Den Hartog *
Jim Guthrie *
Marv Hagedorn
Lee Heider *
Dan Johnson
Shawn Keough
Todd Lakey *
Abby Lee *
Patti Anne Lodge
Fred Martin
Dean Mortimer
Bob Nonini
Sheryl Nuxoll
Jim Patrick *
Jim Rice *
Jeff Siddoway *
Mary Souza
Steven Thayn
John Tippetts *
Steve Vick

Representatives

Neil Anderson
Robert Anderst *
Ken Andrus
Linden Bateman
Gayle Batt *
Scott Bedke
Maxine Bell *
Merrill Beyeler *
Judy Boyle
Van Burtenshaw *
Greg Chaney *
Lance Clow
Gary Collins *
Brent Crane
Thomas Dayley
Reed DeMordaunt
Mat Erpelding
Terry Gestrin
Marcus Gibbs *
Stephen Hartgen *
Brandon Hixon
James Holtzclaw *
Wendy Horman *
Clark Kauffman *
Ryan Kerby *
Thomas Loertscher

Luke Malek *
Patrick McDonald *
Shannon McMillan *
Ron Mendive
Steven Miller
Mike Moyle
Pete Nielsen
Mark Nye *
Kelley Packer *
Donna Pence
Christy Perry *
Dell Raybould
Eric Redman *
Paul Romrell
Dan Rudolph *
Paul Shepherd
Elaine Smith
Jeff Thompson
Caroline Troy *
Janet Trujillo *
Julie VanOrden *
John Vander Woude
Rich Wills
Fred Wood *
Rick Youngblood *

* received award every year eligible

NEW LEGISLATORS: The 2016 Idaho Legislature had two new members in the Idaho Senate. Both won their seats through appointments by the Governor prior to the 2016 Session. Senator Mark Harris

was appointed to replace Senator John Tippetts, who was named Director of the Department of Environmental Quality, and Senator Kelly Anthon was appointed to replace long-time Senator Dean Cameron, who was named Director of the Department of Insurance.

Senator Mark Harris: Gov. Butch Otter stated, “Mark brings with him some valuable experiences gained while working in Idaho agriculture and serving on various voluntary boards and committees. While he has some big shoes to fill, I am quite confident that Senator Harris will live up to those expectations.” Senator Harris is a trustee at Bear Lake Memorial Hospital and serves on the Bear Lake County Planning and Zoning Committee. He holds a political science degree from Utah State University and is fluent in Spanish. He is serving out Tippetts’ term, which runs through 2016. Senator Harris previously served on Otter’s campaign team as a regional co-chair during the 2014 election, according to the Associated Press; he also sits on the Idaho Republican Party’s executive committee. In 2011, the Governor chose Tippetts over Harris to fill the same Senate seat. Harris and his wife, Cheryl, reside in Soda Springs.

Senator Kelly Anthon: Senator Anthon is a 7th generation Idahoan. “Kelly’s extensive experience in economic development, the legal profession, and agriculture uniquely qualify him to represent the people of the Mini-Cassia area,” said Governor Otter. “I am confident he will ably serve the constituents of District 27.” Senator Anthon is the administrator for the city of Rupert. He is also a past president of the Burley Rotary Club, worked as a board member for two economic development organizations, and served on the boards for two local hospitals. “It is an honor to be appointed by Governor Otter to serve the community I love,” said Anthon. “My family and I feel humbled at this opportunity and I will do all I can to serve the people in the Mini-Cassia area and to represent our community values.” Anthon and his wife, Joelle, live on their family farm near Declo and have five children.

ISDA RULES REVIEW: The Idaho Legislature reviewed new rules and changes to rules proposed by the State Department of Agriculture. When rules and changes are drafted each year, the House and the Senate have the opportunity to accept or reject each one as they are presented. Many of the rules are updates to definitions, codes, and descriptions in order to keep handbooks current each year. The more significant rules are presented as changes that have greater effects on how Idaho agriculture will operate moving forward.

The cattle industry will be affected by a couple of new changes dealing with importation and testing of bulls. Dr. Scott Leibsle, Deputy State Veterinarian, presented modifications to requirements for inspecting cattle for a venereal disease called Trichomoniasis, as they are imported, as well as some technical changes that apply to acceptable methods of testing that will help harmonize regulations across our region and beyond. The rule was approved by both the House and Senate.

Another important presentation that took place was by Matt Voile, Ag Section Manager, who informed the committees that two new invasive species were added to the Early Detection and Rapid Response (EDRR) list of noxious weeds. Iberian and Purple Starthistle, weeds that look almost identical and are very similar to Yellow Starthistle, are now on Idaho’s radar and becoming more prevalent in our state. Weed control agencies are taking steps to stop the spread of these two new additions. The rule was approved by both the House and Senate committees.

ICC/FFA CENARRUSA DAY ON THE HILL: For 36 years the Idaho Cooperative Council has sponsored a public policy activity involving FFA students from around the state. For several years the event was a breakfast held in downtown Boise with workshops on government led by lobbyists and legislators. Then the event grew into what is called the ICC/FFA Cenarrusa Day on the Hill – named after Pete Cenarrusa who held public office in Idaho for over 51 years. This year’s event was held on

Monday, January 25, and drew a crowd of nearly 600 participants including FFA members, legislators, and guests. Senator Jim Rice and Rep. Caroline Troy were honored at the event on behalf of the Cooperative Council and presented the Friend of the Industry award by ICC President, Jack Ingram.

129,000# TRUCK WEIGHT: S1229 will provide legal authority for the state of Idaho to allow vehicle combinations with a gross vehicle weight of 129,000 pounds or less, on Idaho's interstate highway system. The Idaho-specific transportation rider in the federal omnibus bill, which was added to the House version of the federal spending bill by Rep. Mike Simpson and to the Senate version by Sen. Mike Crapo, opened up the change. No trucks in excess of 105,500 pounds have been allowed on interstates in Idaho since the federal government enacted a freeze on states' weight limits in 1991. Agriculture has proposed that the change could reduce shipping costs by as much as 15% in the future but will be dependent on old fleets being updated and will take some time. Upon the bill's passage in Idaho, shipping in Idaho should be on more of an equal footing with Utah, Montana, and Nevada. Wyoming's limit is currently 117,000 pounds.

WATER LEGISLATION: Everyone knew going into the 2016 legislative session that water issues would be a major topic. It took until February 1 for the first pieces of legislation to surface. At the center of much of the discussion is the water settlement agreement that was crafted and overseen by Speaker of the House Scott Bedke over the summer. Bringing together a variety of boards and entities was no easy task, but the Speaker was committed and made it happen. Now it is time for implementation. Three important Senate Concurrent Resolutions (SCR) that address the issue were adopted by the Legislature:

Managed recharge goals: SCR136 dealt with recharge for Eastern Snake Plain Aquifer (ESPA). The purpose of the Resolution is: 1) to establish an ESPA managed recharge goal of 250,000 acre-feet on an average annual basis; 2) to direct the development of the capacity necessary to achieve the ESPA recharge goal on or before December 31, 2024; and 3) to provide Legislative approval to increase the ESPA Comprehensive Aquifer Management Plan - Phase I managed recharge from 100,000 acre-feet to 250,000 acre-feet average annual managed recharge. As described in the Resolution, these measures are necessary to address the declining ground water levels in the ESPA. Since 1952 the total volume of water stored in the ESPA has decreased by an average of 216,000 acre-feet and spring flow discharges in the Thousand Springs area are nearing 1912 measured flows. In absence of implementation of a managed recharge program across the ESPA, there will be inadequate water supplies to provide a reasonably safe supply for all water users, which will lead to more protracted litigation and increasing economic harm to the state of Idaho. While managed recharge will not alone resolve the decline in the ground water levels, it is one of the measures that will be required to stabilize and enhance ground water levels in the ESPA.

Managed aquifer recharge: SCR137 requested the Idaho Water Resource Board identify and implement stabilization projects to enhance ground water supplies throughout Idaho. As documented in the Resolution, ground water supplies across Idaho have been declining. These declines in some areas have resulted in an inadequate supply of water to sustain surface and ground water uses and led to contentious, costly, and time-consuming litigation. This Resolution encourages the Idaho Water Resource Board to undertake a proactive approach to reversing the declines in ground water levels in aquifers throughout the state to prevent the economic impacts that will inevitably arise if ground water levels continue to decline. The Resolution calls for specific actions in the Treasure Valley, Mountain Home, Big and Little Wood River Basins, and the Palouse Basin.

Water settlement agreement: The purpose of SCR138 is to express legislative support for the June 15, 2015, settlement agreement between participating members of the Surface Water Coalition and

participating members of the Idaho Ground Water Appropriators, Inc. This settlement will resolve the multiple water delivery calls that have led to protracted litigation and economic uncertainty for all water users in the Upper Snake River Basin. Under the terms of the settlement agreement, ground water users diverting from the Eastern Snake Plain Aquifer (ESPA) have committed to reduce their consumptive use in order to "stabilize and ultimately reverse the trend of declining ground water levels and return ground water levels to a consistency equal to the average of the aquifer levels from 1991-2001" by April 2026.

IDAHO RURAL PARTNERSHIP: Since the Farm Bill of 2002, Congress has continued to re-authorize the purpose and existence of the State Rural Development Councils. The Idaho Rural Partnership (IRP) program has been a valuable source of leadership and information in rural Idaho communities who struggle with unemployment, isolation, and scarce resources. IRP has accomplished these community assessments through "Idaho Community Reviews," and H417 re-authorized the Idaho Rural Development Partnership Act. The purpose of the legislation is to: 1) clarify the appointing authority for certain positions on the Idaho Rural Partnership Board; 2) remove the requirement that the Executive Director of the Partnership be a full-time state employee; and 3) make minor changes to the definitions and mission of the Partnership to conform with the current practices and funding of the National Rural Development Partnership. Numerous communities throughout Idaho appreciate the work of IRP and can cite examples of the IRP helping to strengthen the structure and address concerns in their rural communities.

MINIMUM WAGE: Food Producers of Idaho voted to support H463 which clarified that the minimum wage in Idaho is decided by the legislature and applied uniformly across the state. The bill was drafted by the Idaho Retailers Association and comes after two cities in Idaho have tried and failed to pass ballot initiatives that would have allowed an increase in their respective jurisdictions. The current law points to the state setting a minimum wage but after an attorney general's opinion stating that the law was vague, the proposal was drafted. The bill specifically states that no political subdivision of this state will be able to establish, by ordinance or other action, minimum wages higher than the minimum wages provided by the state. The argument is that uncertainty will hinder employers and a uniform minimum wage will ensure a stable and level playing field for businesses across the state. For those small and large businesses that operate in more than one jurisdiction in Idaho, including some agricultural co-ops and implement dealers, it provides a stable pay scale throughout their business even if employees are paid well above minimum wage. Potentially, business in certain sectors could relocate to only a few jurisdictions if the numbers of employees and profit margins allowed the entity to profit from a move. Several in opposition stated that a few communities may require cost of living adjustments due to their locations, designations as resort towns, or simply a unique composition in their community. Committee members in favor of the legislation argued that the statute does not limit any employer from paying enough to support higher costs of living; it only limits the base wage that can be offered. With the minimum wage debate being a high profile issue on the national stage, H463 had some political gamesmanship attached to it and came after a failed attempt of a proposal to increase the minimum wage across the state. H463 will go into effect July 1st.

IDAHO STATE DEPT. OF AGRICULTURE: ISDA presented before the Joint Finance & Appropriations Committee (JFAC) the Governor's budget request for the department for FY 2017 that was approved. In 2015, funding for the department came with 65% from dedicated funds (fees), 26% coming from general funds (state tax base) and 9% derived from federal dollars. The total amount the department requested for FY17 added up to \$33,012,500 (\$38,480,000 with projected federal funding), which is very low for an agency its size. ISDA requested increased funding for the organics program because 81% of Idaho families report buying organic products. There has been an increase in organic processors for milk and cheese (Sorrento, Glanbia, High Desert Milk, Horizon Organic, Organic Valley), an increase in value added food products (Amy's Kitchen, Clif Bar), and Dairies demanding more

organic feed. The Idaho Food Quality Assurance Lab will need more support to increase operating spending authority and for an adequate fund balance and additional revenue generation. The third increase included the Brucellosis testing to expand staff by three positions, industry expansion in Idaho, and lab equipment. The new plants and industry expansion refer to the two new large capacity cattle slaughter plants under construction in Idaho. In Burley, the plant will include a 500 head per day capacity and is projected to be complete by early summer. A 1,700 head per day capacity plant in Kuna is expected to be finished by fall of this year.

ISDA received a special supplemental appropriation from the legislature to handle cleanup efforts and impact of using Methyl Bromide to fight the Potato Cyst Nematode problem that Idaho potato producers have faced in recent years. A joint research project between two of Idaho's universities - U of I and BSU - has assisted the department with valuable information. Director Gould has taken the information to Washington, D.C., and shared with the Idaho Congressional delegation in hopes of placing pressure on EPA for clarification as to the resulting effects of the use of the chemical against the nematode problem.

NOXIOUS WEED RESEARCH: H469 is legislation to make one minor amendment to S1073 (signed into law by Governor Otter on April 6, 2015) relating to collection, removal, and movement of noxious weeds. H469 adds a new paragraph defining a privately funded research facility. H469 defines private facility as any privately funded laboratory, college, university, etc., that adheres to the standards defined in the existing definition. The language which addresses funding from governmental sources is omitted in the definition of private facility. The Idaho Weed Control Association Board of Directors and Food Producers of Idaho supported.

ANIMAL CARE: H524 addresses Idaho's animal cruelty law, which currently provides a felony for a third offense of animal torture, and will completely exempt production agriculture. This proposal includes a second-offense felony provision and contains a first-offense felony provision if the person has been convicted of causing voluntary infliction of bodily injury upon any animal within the last ten years. The Food Producer Animal Issue Committee, led by Idaho's dairy and cattle industry, worked on H524 with Chairman Andrus, House Ag Affairs, to further strengthen provisions pertaining to production agriculture while finding a position that agriculture can live with when it comes to penalties for companion animals. Industry attached new provisions and removed additional language to the current statute to ensure that if agriculture ever lost its exemption, production agriculture and livestock would still be safe. Some of those provisions currently in code include penalties for over-driving or overworking animals in general and were removed because of the vague and overarching phrasing that could be open to interpretation by courts that have little understanding of standard and approved agricultural practices. Chairman Rice, Senate Ag Affairs, was also supportive of H524 and included his language in the bill. His language adds guidelines for presentence psychological evaluations in animal cruelty cases and provides that prior to sentencing and at his discretion, a judge can order a presentence psychological evaluation. A prosecutor can also request a psychological evaluation prior to sentencing but the judge would determine whether a psychological evaluation is warranted. In Chairman Rice's view, penalties only treat the symptoms and do nothing to help or deter an individual from committing a crime. The delicate balance in all animal welfare legislation has continued to be further separating laws dealing with production and companion animals while not permitting penalties concerning companion animals to allow for the camel's nose to reach too far under the tent. The agricultural community understands well that the Humane Society of the U.S. has an ultimate goal to force a first-time felony penalty for torture of, or cruelty to, animals and continues to push towards a statewide ballot initiative. Outrageous statements persist from the organization and its leaders, and there is ample evidence that they are not simply against cruelty or torture, but also against production animals as a food source. H524 will help to further secure the distinction between production and companion animals as agriculture continues to defend producers and their way of life.

HONEY INDUSTRY DEPREDATION: S1340 will add the words "bees" and "beehives" to the Expendable Big Game Depredation Account administered by Idaho Fish & Game. Previously the fund is only authorized to pay for honey and pertains to damage by black bears, grizzly bears, or mountain lions. With the additions, the fund will see a few more claims filed against it but would better compensate producers for the most important part of their business. Honey is often the least valuable portion of a producers operation and the cost of bees, as well as the boxes, outweighs what the commodity provides. Costs and profits are recouped by producers from pollination contracts with the added income of the honey produced. The bill was supported by the Idaho Honey Industry Association.

FOOD REGULATION: In Idaho, food safety activities have fallen under the jurisdiction of the Idaho Department of Health and Welfare (IDHW) in the absence of "other government oversight." In practice, IDHW has been the main authority over retail food safety (grocery stores, restaurants, cottage foods, etc.). However, there are other areas of government oversight with respect to wholesale food activities including production and processing. Food processing inspection is allocated several ways. Dairy processing is currently inspected by the Idaho State Department of Agriculture (ISDA). For non-dairy food processors, the primary oversight for food safety and inspections falls within the jurisdiction of the FDA. Therefore, the oversight our Code provides has historically made IDHW the "back-up authority" for food safety with respect to food processors of all types. Those who deal in the area of food production and processing have been most comfortable working with ISDA.

H499 establishes ISDA as the delegated state authority for food regulation of any non-retail activities subject to the Food Safety Modernization Act (FSMA). These activities range from production to processing and include both human and animal food. As implementation of FSMA continues, having that expertise centralized at ISDA makes great sense to those who work in agriculture and the processing of agriculture products. H499 also allows for a process to take place at a later date that would transition the food safety oversight for food processors and/or production in Idaho to the ISDA. Eventually, a centralized, statewide food safety program for activities covered under FSMA from production through processing will be established. The bill also directs that, when ISDA and IDHW work through this transition, there will be coordinated, negotiated rulemaking in 2017 to ensure that there is clarity on responsibility over every area of food safety.

AGRICULTURE BIOSECURITY: H531 adds to existing law to prohibit certain acts of terrorism regarding agricultural facilities and operations. H531 spells out the violations and penalties, and clarifies that specified provisions shall not be construed to limit a court's power to order restitution or to limit civil actions and remedies. Specifically, it will make it unlawful for a person to knowingly commit any acts in the state of Idaho with the intent to damage, poison, or infect crops, livestock, products, or facilities of an agricultural operation without the knowledge and consent of the owner. Included will be the release or spread of any type of contagious, communicable, or infectious disease or poison; an attempt to release or spread any type of contagious, communicable, or infectious disease or poison; or aiding, abetting or conspiring with another person to release or spread any type of contagious, communicable, infectious disease, or poison.

A person violating any of these provisions will be found guilty of a misdemeanor when the damage to crops, livestock, products, or consumers of the products, or the agricultural facility itself is \$1,000 or less. The penalty and fine increases if a person is found guilty of damage valued at more than \$1,000. The stipulations will include a felony, and upon conviction, a person could be punished by a term of imprisonment of up to 20 years, or by a fine of \$10,000 or less, or by both a fine and imprisonment. The provisions will not limit the court's power to order restitution equal to the extent of the damage suffered to the agricultural operation and gives the court guidance, as well as leeway, to order appropriate action within the new proposal, depending on the crime. This legislation is applied right down to the local

farming operation. Several other states have passed similar legislation addressing the issue of agri-terrorism.

WILDFIRES: The Joint Finance and Appropriations Committee voted 13 - 4 in favor of setting aside \$34.5 million in next year's budget for the cost of catastrophic wildfires. The appropriation (H636) was driven by the committee and the number was based on the three-year average of what state costs have been for fire seasons. Though the amount will likely not cover the full costs of a single fire season, it may blunt the initial shock to the state's budget and provide an easier transition as lawmakers decide where to take money from to cover fire costs from year to year. Idaho spent \$60 million on wildfire suppression costs this year, and at the current time, the balance is over \$13 million to the negative in the fund. If there are no fires or we have a minimal fire season, the funding will be there to roll forward into FY18.

GROUND WATER MANAGEMENT AREAS: H595 is intended to clarify that the Idaho Department of Water Resources (IDWR) Director will not curtail a participant in an approved water management plan as long as they are in compliance with the plan. The bill also removes language that requires the Director to determine if there is sufficient ground water and issue a curtailment order by September 1 of the year prior in which administration of a curtailment would occur. The only argument was that the September 1 deadline is too far in advance of the irrigation season to allow for an accurate determination by the Director if there is sufficient ground water to meet demands of water rights within all or portions of a water management area. The bill was passed and signed by the Governor.

THE 2017 AGENDA ISSUES ADDRESSED BUT NOT RESOLVED IN 2016:

DYED FUEL: There continues to be discussion with concern of enhanced enforcement of the Dyed Fuel laws in Idaho. Food Producers of Idaho has created a white paper to provide some background and outline the issue to those lawmakers and affected parties. The questions before the Idaho Legislature are what type of enforcement program should Idaho have, and what agency should handle the enforcement activities? These questions have persisted over the years based on an assumption by some that there are those using the fuel on the road illegally and that there is more tax revenue out there not being captured. Though no action was taken during the 2016 Session, we will be engaged in conversations and meetings over the interim in preparation for the 2017 Legislative Session.

Below are enforcement options identified by the Idaho State Tax Commission (ISTC) based on a study they conducted:

- Allow inspection of main vehicle supply tanks by the ISTC or its designee.
- Add dedicated fuel tax investigation and prosecution units.
- Clarify that the violation is on the driver, vehicle owner, or both. Increase the fines for the violations. The violation is on the person who would reasonably know of the violation. Enhance the dyed diesel referral program with a Web page and reward fund.
- Implement a weight/mile tax for diesel vehicles over 26,000 lbs. gross vehicle weight (GVW) in lieu of a diesel fuel tax.
- Tax all dyed diesel, and allow a refund for nontaxable use.
- Do not allow dyed diesel to be used in Idaho. Refund claims based on a flat percentage or authorized percentage will be allowed.
- Tax fuel as it enters (1st receiver tax) and leaves (retail tax) the fuel distribution system, and include information reported by fuel carriers to the ISTC for full accountability of fuel.
- Require retailers and purchasers to be licensed to buy or sell dyed diesel. Licensed retailers would file an informational report to track motor fuel sales. Licensed purchasers would be allowed to purchase dyed diesel exempt from tax.

Concerns identified by agriculture that would need to be addressed in any legislation:

- What is the suspicion or “probable cause” for dipping a tank? Will all diesel powered vehicles be subject to tank dipping through some form of implied consent or would the enforcement agency be required to have some type of reasonable suspicion that the vehicle is improperly using dyed fuel?
- Will Idaho have sole jurisdiction on enforcement or would the enforcement entity be required to have joint responsibility with the IRS? Will there need to be a memorandum of understanding between the state and the IRS?
- Does an enforcement action on a single vehicle give the enforcement entity the power to test other vehicles with the same ownership?

Other options that should be considered:

- The ISTC and the ITD would need an extensive educational and informational program on the intended use of dyed fuel and the ramifications of the improper use.
- The ISTC and the ITD should design signage and/or pump color schemes that would discourage inadvertent pumping of dyed fuel into an on-road vehicle.
- Widely publicized violations of the improper use of dyed fuel would discourage continued use.

Where the latest concerns have originated: In 2015, during the legislative debate on proposals to increase the Idaho fuel tax, there was considerable discussion of possible improper use of dyed diesel to avoid paying the Idaho fuel tax. It became evident during debate, that there is no accurate method of measuring the amount of dyed fuel that is being improperly used, and whether that use is intentional or not. Idaho does not currently have a dyed fuel enforcement program. The relevant regulations are enforced by the IRS. The Idaho State Tax Commission (ISTC), the Idaho State Police and the Idaho Transportation Department (ITD) developed a study addressing options to reduce the illegal use of dyed fuels on Idaho’s public roads. ITD is responsible for providing a safe, efficient, cost-effective transportation system. To achieve this mission, ITD is funded primarily by taxes generated from the sale of gasoline and diesel fuel.

RURAL EDUCATION SUPPORT CENTER: Early in the session, Education Superintendent Ybarra proposed creation of a new program – the “Rural Education Support Center.” The effort would be a pilot project in 14 north Idaho school districts under the format of a cooperative. School districts would pool their resources and would help rural and geographically isolated districts obtain needed services. When originally presented to JFAC by the Department of Education, the proposal was seen to be lacking details. The committee cited the top budgetary priorities of increasing teacher pay through the second year of the career ladder and to reverse recession-era cuts to discretionary funding getting in the way of the rural center idea advancing. That all changed in the closing two weeks of the session.

H628 received a hearing and would have established the Rural Education Support Center, in an effort to provide support, flexibility, cost sharing, and personnel sharing opportunities to local school districts. A local school district, or districts, must provide a written request from their local board of trustees in order to be provided services through the Rural Education Support Center. It was further defined that a Rural Education Center would be an opt-in cooperative entity, in which school services may participate. The measure passed out of the House Education Committee and the House floor with a 44-26 vote, with a fair amount of expressed opposition. H628 was not in the Senate Education Committee agenda by the end of the session but we expect a proposal will come forward in the 2017 session.

BOAT INSPECTION STATIONS: Toward the end of the session we saw an interesting development of discussions centered on the Invasive Species Fund and increased spending authority for the

Department of Agriculture for boat inspection stations (\$1417). The budget provides for the department to have increased spending authority, at their discretion and drawn from the Invasive Species Fund, for the remainder of this year of \$300,000. It will also allow the department to do the same in FY 2017, for the amount of \$700,000. The spending authority is specifically geared toward increasing efforts to prevent the spread of invasive zebra and quagga mussels into Idaho's waters and to pay for additional hours of operation for roadside water craft inspections. There were other last minute efforts to make changes to increase boating fees and provide more money for the invasive species fund, specifically to inhibit infestations of quagga mussels. Currently, boat tags bring in around \$1.2 million per year and the funds are deposited into the invasive species account. H594 would have increased that figure to \$2.4 million per year by doubling the fee for the tag for boaters. The proposal drew quite a crowd and the sponsor of the bill withdrew the legislation, citing the increase in the Department of Ag's spending authority being sufficient and the wish of the governor's office to discuss increased boat fees over the interim to properly vet an increase. We will most likely see a proposal to increase inspection fees in 2017.

RULE MAKING AUTHORITY INITIATIVE: A proposed constitutional amendment (HJR5) that was adopted, seeks to make permanent the legislature's ability to review and reject rules enacted by state government entities. You may remember the same type of initiative was run in the 2014 election cycle but did not pass due to, in some legislators' opinion, a confusing explanation of the initiative on the ballot. State lawmakers already have the authority to veto rules because of an Idaho Supreme Court decision two decades ago. Nothing would change in the current practice, and the legislation has triggered the initiative process again to be placed on next November's ballot. Idaho is unique in its legislative oversight in the rulemaking process, and some lawmakers are concerned that without a constitutional amendment, the current process may be changed in the future. Many laws passed by the legislature require agencies to design the specifics of how that law will be applied. Oftentimes these rules become the face of the law and have a huge impact on the citizens of the state. Allowing legislative oversight ensures that state government is operating within the legislative intent. Placing oversight responsibilities directly in the hands of elected officials serves as a restraint on the executive branch of government and provides more grassroots power to the citizens of Idaho. The initiative will be placed on the November ballot for public approval.

RETIREMENTS: Food Producers of Idaho hosted a special luncheon on Wednesday, March 23, in honor of the following eight legislators who are not running for re-election:

Senator Roy Lacey	Rep. Donna Pence
Rep. Dan Rudolph	Rep. Reed DeMordaunt
Rep Ken Andrus	Rep. Gayle Batt
Rep. Linden Bateman	Senator Curt McKenzie

PRIMARY ELECTION: The fact that 2016 is an election year for every state legislator has been no small factor through this legislative session. Just as farmers are feeling the springtime itch to get out in the field, legislators were equally anxious to get back to their home districts and go to work on their re-election campaigns. Friday, March 11, was the deadline to file as a candidate, and the 221 registered candidates launched Idaho's 35 districts into campaign season leading to the May 17 primary election. In many districts with strong party loyalties, the primary election will effectively determine the outcome of the race. Likewise, both U.S. House Congressional seats cover the same two-year timeframe and include a challenged race in District 1 between Republican incumbent, Raul Labrador (Eagle) and Democratic challenger, Staniela Nikolova (Moscow). District 2 is currently an unchallenged seat with Republican incumbent, Mike Simpson (Boise) running for a 9th consecutive two-year term. U.S. Senate Congressional seats are held for six years. Idaho's District 2 Senator, Mike Crapo (Idaho Falls) is also unopposed, running for his 4th consecutive six-year term.

PROGRESS REPORT: It seemed like things moved very slowly for the 2016 session. A check on legislation progress indicated we were not too far off track from previous years:

FINAL	2016	2015	2014	2013	2012	2011
New legislation prepared	831	763	839	777	826	827
Changes, amendments, and engrossments	<u>312</u>	<u>326</u>	<u>268</u>	<u>325</u>	<u>371</u>	<u>355</u>
	1143	1089	1107	1102	1197	1182
INTRODUCTIONS						
Bills (both houses)	557	523	542	545	554	565
Resolutions, Memorials, Proclamations (both houses)	75	72	66	79	74	55
ACTION						
Bills Passed (both houses)	379	351	357	356	342	336
Bills signed by the Governor	369	342	352	351	335	331
Law without Governor signature	8	4	5	3	7	4
Bills vetoed by the Governor	2	4	0	2	0	1
Line item veto	0	1	0	0	0	0
Veto Overridden	0	0	0	0	0	0
Resolutions, Memorials adopted	52	48	43	56	44	35
Length of Session (days)	75	89	74	88	81	88
TRIVIA						
Code sections amended	619	660	520	535	606	634
New code sections	222	815	149	139	134	179
Code sections repealed	94	879	143	69	53	88
Pages of passed legislation	1512	1739	1237	1353	1251	1283

CLOSING: We hope you have found the communication related to legislative issues complete and valuable to understanding what happened in Boise January through the first of April. Our weekly *Capitol Review* is designed to inform you each week about issues that impact the agriculture industry and special events and people involved with these issues. If you have specific questions related to legislation discussed in this report or between legislative sessions, please do not hesitate to contact our office. We can be reached at:

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