



# CAPITOL REVIEW

## A WEEKLY LEGISLATIVE REPORT

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### A Weekly Legislative Report

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#### GOVERNOR AWARDS FOR EXCELLENCE IN AG

Congratulations to the following award winners who were presented the **Governor Awards for Excellence in Agriculture** at the Idaho Ag Summit this week:

Education/Advocacy – Cordell & Jamie Kress, Rockland

Environmental Stewardship – Lance Griff, Twin Falls

Marketing Innovation – Jack Brown, Moscow

Lifetime Achievement – Stanley T. Boyd, Eagle

Governor Brad Little and First Lady Teresa Little attended the luncheon to present the awards to the winners.

#### ADMINISTRATIVE RULES

A few pieces of legislation have been proposed dealing with state agencies and the review process by the legislature and standards for court review. H626 would require courts reviewing administrative rules to look to interpret the meaning and effect of the rule without consideration of previous judicial or agency interpretations. This would mean that if individuals, landowners or businesses were in court because they had been summoned into court for allegedly not following a specific agency rule, the court couldn't make its ruling or defer to the agency simply based on what the agency has interpreted the law to be. H626 also directs that reviewing courts must rule, where an interpretation is in relative doubt, to limit agency power in favor of individual liberty. Though the "individual liberty" language in the bill doesn't have a legal definition attached to it, it does emphasize the importance of an agency having to lean towards the individual interpretation over agency power. H626 was a rewrite of a previous bill agriculture had supported (H562) and will likely be supported pending technical considerations with the legislation.

H563 is another bill dealing with agency rules but is one that Food Producers of Idaho has taken action to

oppose. H563 makes three changes to the Idaho Administrative Procedure Act, which is vitally important and has been weighed in on heavily by commodity groups and landowners through the years. It narrows the language concerning temporary rules; addresses legislative oversight of material incorporated by reference; and would require each agency to legitimize the reasoning and necessity of each rule chapter more often. On the surface these provisions may sound useful but in practice and application, they could unravel years of work and public meetings where agriculture has won hard-fought battles using experts and scientific data to justify best management practices for producers. Further, it would open the door for political calculations and priorities to reinterpret these rules without consideration of the unintended consequences for farmers and ranchers.

One such example is the language added to rules (incorporated by reference) that are directly from the federal government and must be followed by federal law. If a state agency doesn't adhere to those standards, it opens the agency to slew of lawsuits akin to the many lawsuits filed against the Environmental Protection Agency every year by attorneys working in conjunction with interest groups directly and indirectly trying to hinder production agriculture and working lands from operating. Rejecting incorporated by reference language can also put a producer out of compliance federally while still being in compliance with the state and would place the burden on the producer to be in compliance with federal law without the benefit of the state acting as an intermediary. We have seen time and time again, state agencies working with producers to help them get into compliance before or instead of levying a fine. The alternative is the federal heavy-handed approach that simply fines a producer who may not have been aware they weren't complying or are making a true effort to get in compliance.

### PAT TAKASUGI LEADERSHIP AWARD

At the 2024 Idaho Ag Summit Dr. Glenn Shewmaker, professor emeritus, and former extension forage specialist with the University of Idaho, located at the Kimberly Research and Extension Center, was recognized with the Pat Takasugi Leadership Award. Glenn received his B.S. and M.S. degrees in Animal Science from the University of Idaho and his Ph.D. in Range Science with an emphasis in plant ecophysiology from Utah State University. Pat Takasugi was the former Director of the Idaho State Department of Agriculture and a former State Legislator. He passed away in 2011. The award was established by the Idaho Ag Summit Planning Committee, and this year was presented on behalf of the hay and forage industry.

### LAND BOARD LEGAL COUNSEL

The State Board of Land Commissioners (Land Board) comprises Idaho's Governor, Secretary of State, Attorney General, Superintendent of Public Instruction and State Controller. The Land Board provides direction to the Department of Lands in managing more than 2.5 million acres of state endowment trust lands in Idaho. The Land Board also oversees the work of the Department of Lands in its regulatory and assistance duties, and in managing Idaho's public trust lands and the thousands of miles of land beneath Idaho's navigable waterways.

S1292 addresses some past conflicts that have arisen where the Land Board has made a decision, directed the Department of Lands to act, but the Attorney General has said that the decision was unconstitutional and will not act on behalf of the Land Board. These situations leave the Land Board with no alternative to move forward with legal counsel that is in concert with the Land Board as a whole. S1292 removes the responsibility of the Office of the Attorney General to provide legal representation to the Idaho Department of Lands and allows the department to hire or contract its own legal counsel. They would still be able to contract with the Attorney General if desired. The bill passed out of the Senate Natural Resource Committee but may be amended before it is debated on the Senate floor.

### DOMESTIC WELLS

S1370 addresses the use of exempt domestic wells in subdivisions. S1370 would require the use of shared or public water systems in subdivisions with 10 or more lots (where each lot is less than 5 acres); would require that surface water being used for irrigation on land must continue to be used for irrigation when that land is developed; and would authorize a county to consider water supply conditions in the comprehensive planning process.

### LIVESTOCK DEPREDATIONS

H612 would add the payment of depredations to the authorizing language of the Wolf Depredation Control Board. Currently, the Wolf Depredation Control Board is solely responsible for the lethal control of wolves within the state of Idaho. H612 would expand their authority to remit payment from the fund to ranchers who suffer losses due to these animals. The governing agencies, specifically the Idaho State Department of Agriculture (ISDA), would have to develop and compile data on the death losses prior to 1995 and the reintroduction of wolves. Using these death losses the board would allow ranchers to submit their previous years' death losses in a chronic depredation area for payment from the board for those losses.

H592 would create a state level livestock depredation fund for producers that experience losses from wolves and grizzly bears. Currently, the Office of Species and Conservation applies for a federal grant through U.S. Fish and Wildlife Services that has historically provided relief to ranchers for wolf depredations and for non-lethal or conflict prevention. However, the funding that is being provided by this federal grant is continually diminishing and provides no relief for grizzly bear depredations or conflict prevention for grizzly bears. Livestock interactions with predators continue to be significant across rural Idaho. These depredations only account for those animals that could be discovered and investigated in a timely manner. There are likely many more that are not investigated because they occur in allotments or pastures that producers do not access each day. However, the evidence of depredations due to a predator is only a fraction of the damage that has likely occurred when predators enter a cattle herd. Ranchers continually confirm that wolves and grizzly bears in livestock herds also contribute to lower pregnancy rates, weight loss and lack of docility in animals. These economic losses are not compensated but realistically occur and are shouldered by the producer. The wolf and grizzly bear depredation fund would be administered by the Idaho State Department of Agriculture (ISDA) with consultation from the Office of Species Conservation and Idaho Fish and Game. ISDA will promulgate rules that provide standards for validated or probable claims of depredated animals alongside the types of conflict of prevention methods that could be funded.

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