

Capitol Reflections



2016 Legislative Session

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IGWA Presents Proposed Legislation

The Senate Resources & Environment Committee heard four pieces of proposed legislation presented by the Idaho Ground Water Appropriators on Wednesday afternoon. All four RSs were passed by the committee to be introduced for hearing.

The proposed legislation follows:

S1222 – Clarifies that nonirrigators who join a ground water district for mitigation purposes only may be subject to all mitigation plans and activities of the district.

S1223 – Gives ground water districts the ability to contract with nonmembers who wish to participate in and obtain the benefits of the district's mitigation plans.

S1224 – Enables ground water districts to impose assessments based on the number of acres authorized to be irrigated.

S1225 – Clarifies that ground water districts may incur short-term debt without holding an election.

Section 179 Small Business Expensing

Each year the Legislature usually approves a bill which conforms Idaho tax law with federal tax law so that businesses in Idaho do not have to keep two sets of books for tax purposes. This year, the annual IRS Tax Conformity bill includes a provision that is very important to Farm Bureau members.

For several years now, a top priority of the American Farm Bureau has been to get Congress to permanently approve Section 179 small business expensing at the \$500,000 level. This tax provision allows small businesses to expense new equipment purchases and other depreciable assets up to the \$500,000 cap in one tax year, rather than taking depreciation over a number of years. This works well for farmers who may have had an exceptional year and they want to offset income with equipment replacement for tax purposes.

For several years now, Congress has temporarily extended this provision a year at a time, usually retroactively at the end of the year for that year. If it was ever allowed to expire, it would go back to the original cap of \$25,000. This made it extremely difficult for small businesses to plan since they did not know if the section 179 expensing provision would be renewed again or not, until the end of the year.

Finally, just before Christmas last year,

Congress renewed section 179 expensing and made it permanent this time at the \$500,000 level. This means we will not have to wait and see what Congress or Idaho will do each tax year for this to be effective.

The Tax Commission presented an IRS conformity bill that would allow section 179 small business expensing of up to \$500,000 to be permanent in Idaho as well. Farm Bureau is pleased that Idaho is moving forward with conformity on this important issue. However, there is another item in the conformity bill that is controversial. As drafted, the bill deletes references from Idaho law prohibiting same-sex couples from filing joint tax returns. Several committee members had concern over this language when the bill was presented.

Therefore, just this morning, a new bill was introduced by Rep Janet Trujillo (R-Idaho Falls) which recognizes the definition of marriage found in the Idaho Constitution as a union between one man and one woman, but for tax purposes only, due to the recent United States Supreme Court decision on this issue, same-sex married couples may file a joint tax return.

This bill was sent to the 2nd reading calendar with a “do pass” recommendation. **IFBF supports Idaho conforming with the IRS on section 179 small business expensing.**



Idaho Farm Bureau's Governmental Affairs Report

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Removal From Storage

This week, the House Revenue and Taxation Committee, Chaired by Rep Gary Collins (R-Nampa), introduced a Farm Bureau sponsored bill, H386, which addresses the Idaho Tax Commission's recent efforts to tax farm equipment used primarily to remove farm crops from storage.

Rep Greg Chaney (R-Caldwell) presented the bill and did a great job of explaining its purpose which is to provide a more clear line of where farming activities end and where other activities begin.

The portion of the production exemption which applies to farming operations states that equipment is exempted from sales tax when it is

“reasonably necessary to the operation of the total farming business”. The statute then goes on to provide some examples of farming activities such as planting, harvesting and storage of crops. Unfortunately, since “removal from storage” was not included in the statute, the Tax Commission has determined that equipment used primarily for removal of crops from storage did not qualify.

The Idaho Farm Bureau has worked with the Tax Commission over the summer and has reached agreement on language that will resolve this issue. The bill was introduced by the committee and will receive a full hearing next Wednesday. **IFBF supports H386.**

ISDA's request for Supplemental Appropriations for Methyl Bromide

The Joint Finance-Appropriations Committee heard from the Idaho State Department of Agriculture (ISDA) on Monday morning requesting supplemental funds to address the issue of Methyl Bromide contaminating farm land in Bingham and Bonneville counties. The department is requesting \$250,000 of supplemental appropriations for further research and clean-up efforts. Specialists from Boise State University and the University of Idaho are working together to lead the research efforts for this case while plans are also being formulated to dispose of the thousands of tons of contaminated hay. Director Celia Gould made mention of how difficult the situation is, but also expressed appreciation for the cooperation of the producers affected by this issue.

The department will finish presenting their requests for supplemental appropriations next Monday.

RS24203 – Gives ground water districts the ability to contract with nonmembers who wish to participate in and obtain the benefits of the district's mitigation plans.

RS24204 – Enables ground water districts to impose assessments based on the number of acres authorized to be irrigated.

RS24205 – Clarifies that ground water districts may incur short-term debt without holding an election.

All four RSs were passed by the committee to be introduced for hearing.

College of Ag and Life Science Report

Dean John Foltz presented to the Joint Finance-Appropriations Committee on Wednesday morning as part of the University of Idaho's annual report to the committee. Dean Foltz reported on the college's contribution to the more than \$8 billion agriculture industry within Idaho.

The dean highlighted areas in which the college and the extension program are benefiting the agriculture industry and the state. Some of the areas mentioned include: reducing fire risk and fire response education, the college's Master Water Steward Program, Low Energy Spray Application (LESA), Nutrient Energy Water Nexus, food manufacturing assistance with the new Food Safety and Modernization Act,

aiding the potato industry, and continued development of the 4-H youth program. Updates on the Western Institute for the Dairy Environment (WIDE), the U.S. Sheep Experiment Station (USSES) and the Caine Veterinary Teaching Center were also given.

Dean Foltz announced the closure of the Caine Veterinary Teaching Center and explained that the closure was part of a strategy plan to better educate veterinary students by giving them more direct contact with producers throughout the state.

When asked about what he perceives as the best investment in agriculture, Dean Foltz responded, technology with an emphasis on precision agriculture.

How to Contact Legislators

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.....	93720-0081 (Senate)
Street Address	State Capitol, 700 W. Jefferson, Boise, ID 83720

Tax Commission makes dyed fuel enforcement recommendations

H312a, the 2015 legislation which raised fuel taxes and vehicle registration fees, also included a mandate to the Idaho Tax Commission (ITC) to make a recommendation to the 2016 legislature on dyed fuel enforcement. The Commission inquired of all 50 states and received responses from 29 when compiling its report and presented the findings to the Senate Transportation Committee last week. The House Transportation Committee will hear the report on February 2 and any interested folks should attend.

The report, comprised of 9 enforcement options, was put together by the Idaho Tax Commission (ITC) and Idaho Transportation Department. They are:

Allow inspection of the vehicle's main supply tanks by Idaho State Police or its designee (tank dipping).

Create dedicated fuel tax investigation and prosecution units.

Clarify who is responsible for the violation; the driver, vehicle owner or both. Increase fines for violations. The fine is on the person who would reasonably know of the violation.

Enhance the dyed diesel referral program to include a Web page and reward fund.

Implement a weight/mile tax for diesel vehicles over 26,000 lbs. GVW instead of diesel fuel tax.

Tax all dyed diesel and issue a refund for nontaxable use.

No dyed diesel use in Idaho. Refunds based on a flat percentage or authorized percentage would be allowed.

Tax fuel as it enters (1st receiver tax) and leaves (retail tax) the fuel distribution system, and include information reporting by fuel carriers to the State Tax Commission for full accountability of fuel.

Licensed buyer/seller system for dyed fuel. Licensed retailers would file a report to track motor fuel sales. Licensed purchasers would be allowed to purchase dyed diesel exempt from tax.

Obviously, there are some nonstarters here that IFBF would oppose. Others have pointed out that all proposals create their own sets of issues. IFBF policy number 119 says . . . "We oppose taxing dyed fuel." Commission option 6 conflicts with this policy. Dyed fuel users should not pay a tax and then be burdened with the time and administrative cost to acquire a refund. Why should users of a legitimate fuel, engaged in lawful and legal businesses essentially loan the State of Idaho this money and be required to request refunds? Setting up a more extensive refund system costs tax dollars.

The weight/mile tax for diesel vehicles over 26,000 GVW is probably workable, as other states use this system. Weight/mile tax was struck down by a court decision several years ago, but a constitutionally compliant might be achievable here in Idaho. It would take lots of work. This enforcement alternative does not include diesel vehicles less than 26,000 GVW and some sort of inspection system would have to be created for those vehicles.

No dyed diesel use in Idaho is a major deal breaker for the Idaho Farm Bureau

and we would assume the ag industry as a whole. Almost all implements of husbandry use dyed diesel. Enough said.

The 1st receiver tax again taxes dyed fuel and conflicts with IFBF policy.

Licensed seller/purchaser is an alternative which we would strongly oppose. Again, dyed diesel is a legal fuel used by individuals involved in lawful enterprises and should not require a license to purchase. There are unforeseen collateral issues which would attach to this idea as well. If EPA ever chose to conduct extensive SPCC (Spill Prevention, Containment and Control) enforcement, a list of licensed diesel purchasers would be a really easy place to start.

So where are we? The ITC was charged with making a dyed fuel enforcement recommendation to the 2016 Legislature. **ITC Chairman, Ken Roberts, told the Senate Transportation Committee that their recommendation is a combination of the first four alternatives.**

The commission has not conducted dyed fuel enforcement because it lacked the police authority to do so. Idaho State Police (ISP) was not charged in prior enabling legislation to conduct enforcement. The ITC estimates \$11.4 million in uncollected diesel tax, based on an assumption of 16 percent noncompliance. Industry thinks this violation estimate is very high. IFBF will be vigilant as this issue unfolds to ensure that any enforcement alternative that may receive legislative approval meets IFBF policy and is not burdensome to agricultural producers.

"A right doesn't include the material implementation of that right by other men; it includes only the freedom to earn that implementation by one's own effort."

- Ayn Rand