



# CAPITOL REVIEW

## A WEEKLY LEGISLATIVE REPORT

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### A Weekly Legislative Report

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#### DEQ BUDGET

**H763** encompasses the Idaho Department of Environmental Quality's (DEQ) budget and includes **an additional \$10 million in funding** for a grant program for Best Management Practices. **\$5 million would be** allocated for regular **BMP implementation** and the other **\$5 million for Confined Animal Operations (CAFOs)**. The funding is intended to supplement the agency's federal nonpoint source program grant. In 2021, legislation was passed to establish a specific fund for the annual appropriation of state general fund dollars to support and fund nonpoint source agricultural best management practices projects around Idaho. DEQ identified complications with appropriating, allocating, and disbursing these funds all within the same fiscal year. The nature of these projects span multiple calendar years and makes it difficult for recipients of the subawards to get the work completed and invoices submitted for reimbursement before the end of the fiscal year when it was appropriated. Private landowners and conservation districts have participated in the BMP program since its inception in 2017 to support implementation of agricultural best management practices to help meet water quality standards in impaired water bodies in Idaho.

The \$5 million for CAFOs was added in addition to another bill (**H559**) because CAFOs are not eligible for many water quality projects because they do not directly discharge to water bodies. The purpose of **H559** is to make a fund available to support **investments in environmental projects on CAFOs** to improve livestock byproduct, waste, nutrient and water management, its land application and storage systems. The fund was added to the Governor's budget proposal on top of the \$5 million increase for BMP's. **H763 has passed the House and Senate.**

#### TEMPORARY RULES PROCESS

During the 2019 Legislative Session lawmakers did not pass the traditional omnibus bill that would have approved all agency rules as of July 1 of that year.

During the 2020 Legislative Session the legislature tasked itself with reviewing all the administrative rules. Unfortunately, that process has not gone smoothly in the past three years and **has resulted in state agencies using tools such as temporary rules to ensure rules and fees remain in place.** S1397 has been proposed that would further muddy up the rules process by not allowing temporary rules to be enacted.

If **S1397** were to pass, the reality and effects on the agriculture industry could be very damaging and leave farmers and ranchers highly exposed. Agriculture is already a heavily regulated industry and must effectively engage agencies such as the Idaho Department of Agriculture, Idaho Department of Environmental Quality, and Idaho Department of Water Resources to be sure that growers' interests are well represented, and they are not overburdened in their operations throughout the state.

Many hours are spent assembling growers, collecting science-based data, and securing important industry expertise to offset the continual barrage of environmental activism that would try to diminish what our farmers and ranchers do. The importance of engaging agencies after the legislature leaves in the spring and pushing back against actors that have very different end goals for Idaho agriculture, often happens at this level. It is no small thing when industry commits time, capital, and effort to these proceedings. **We must have stability in law and in rule so that our industry can react in a reasonable timeframe and overburdensome regulations often handed down from the federal level.** Over the past few years, we've not seen the approval of rules be completed, leaving the administrative branch using tools such as temporary rules to ensure administrative rules and fees remain in place. Given recent history, the proposed changes in **S1397 have the potential to create problems and additional costs for every segment of agriculture.**

## POSITIONS FOR BOAT INSPECTION STATIONS

**H768** involves the Idaho Department of Agriculture's budget and includes an additional **five new positions for boat inspection stations**. The Department of Agriculture will use five new positions to maximize the use of the appropriation provided for the watercraft inspection program to minimize the chances of spreading zebra mussels, quagga mussels, and other aquatic invasive species into Idaho waters. The department has been encouraged by the legislature to use roving inspection stations when appropriate and for expanded hours of coverage during holidays when boat transport traffic is likely to increase. It is also encouraged to use extra staffing on busy holiday weekends. The department will gather data regarding the number of watercrafts are bypassing the stations and nighttime transport of watercraft across Idaho's borders. The department will also seek to secure federal funding to further enhance invasive species detection and prevention efforts. The department will also report back to the Joint Finance and Appropriations Committee, the Senate Agricultural Affairs Committee, and the House Agricultural Affairs Committee during the 2023 legislative session regarding the results of the data gathering, attainment of federal funds, and an operational review of the boat stations. **H768** has passed the House but will need to be heard and voted on by the Senate.

## INDEPENDENT COUNSEL

There has been discussion about whether the Attorney General should have a position on the State Land Board and having his staff representing the Idaho Department of Lands should be a considered a conflict of interest. This has culminated in **S1372** which would remove the Deputy Attorney Generals out of the Idaho Department of Lands and would allow the Idaho Department of Lands and Land Board to seek outside counsel. This would have to occur in consultation with the Director of the Idaho Department of Lands. **S1372's** fiscal note estimates the **cost at \$601,800** to hire an estimated 4.0 Full Time Personnel. However, the note also says the Department of Lands' dedicated funds would cover part of that and this would translate to savings to the state general fund in future years. The legislation would not alter any of the Attorney General's duties on the Land Board. **S1372** has passed the Senate and is now waiting to be heard in the House State Affairs Committee.

## EXPORT RELIEF

Agriculture Secretary Tom Vilsack announced plans for **repositioning containers of agricultural goods near port terminals to help improve service for shippers of U.S. grown agricultural commodities**. The U.S. Department of Agriculture (USDA) is partnering with Northwest Seaport Alliance (NWSA) to enhance access to a 49-acre "pop up" site to accept

either dry agricultural or refrigerated containers for temporary storage at NWSA in Seattle to reduce operational hurdles and costs, making it so they can more quickly be loaded on ships at the export terminals. The NWSA includes the marine cargo operations of the ports of Seattle and Tacoma and is the fourth-largest container gateway in the United States.

Congestion-induced impacts to vessel schedules and prioritization of returning containers empty to Asia have significantly raised barriers for exporting agricultural products in containers, resulting in lost markets and disappointed customers. The Northwest Seaport Alliance has seen a nearly 30% decline in the export of agricultural commodities in the last six months of 2021 and the ratio of loaded versus empty container exports has shifted to predominately empty containers since May 2021.

**The Farm Service Agency (FSA) will make payments to agricultural companies and cooperatives** that preposition containers filled with American-grown agricultural commodities at the "pop-up" temporary site at the Port of Seattle. Specifically, **FSA payments of \$200 per dry container and \$400 per refrigerated, or reefer,** container will help cover additional logistical costs. The sign-up will be streamlined through a central application process with the details available in a Notice of Funding Availability that will be published in the coming weeks. **Payments will be made in arrears and verified with the pop-up terminal records.**

The benefits of relieving congestion and addressing capacity issues at ports through partnerships like this one at the NWSA go well beyond the local region, as commodities and agricultural products grown and processed from thousands of miles away flow through the Port. American farmers, ranchers, workers, rural communities, and agricultural companies throughout the supply chain will benefit from efforts to restore and improve proper service by ocean carriers; and ultimately, getting safe, nutritious U.S.-grown products to consumers around the world.

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