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8 2020 LEGISLATIVE REPORT
9 June 1, 2021

10 This year, the 1st Regular Session of the 66th Idaho Legislature started on Monday January 11, 2021 and still has
11 not gone sine die [for Latin purists, see neigh dee a], although the Senate adjourned sine die late on Wednesday
12 night May 12. The House, however, only recessed. There is a minor problem with certain Idaho Constitution
13 provisions on how such things are to work and it may be that the recess by the House canceled the adjournment
14 by the Senate. The AG seemed ambivalent on that question, but finally felt that the recess cancelled the
15 adjournment.

16 There were multiple recesses by both Senate and House this session, including for COVID. I don't even know how
17 to count how many days this session lasted, given all that, but officially they have decided it is 122 days. Seemed
18 like a lot longer. Generally sessions are from 74 to 89 days, shorter in election years. This was my 34th session
19 or so; I have lost count. It may be my last.

20 The figures for the session, incomplete at the moment:

21 1. The House had 408 bills. The Senate had 220. Both are theoretically done for the year.

22 2. 364 bills passed both chambers and became law.. Four bills vetoed by Governor Little.

23 Only about two thirds of RS's ever get printed in most years and generally only about 40% of RS's become law.
24 Generally about 60% of printed bills become law. This year there were 925 RS's and 675 (73%) got printed and
25 364 (54%) of those became law.

26 The number of bills presented in the probate code, tax, and related areas was quite limited. Tax & Estate
27 Professionals of Idaho, Inc., which is a broad-based multi-disciplinary non-profit group, reviews and proposes
28 legislation in the tax and probate code arena. I currently serve as Chairman.

29 New laws of interest, all of which take effect July 1, 2021, unless otherwise noted (bills which failed or died are
30 noted when appropriate), are below. I reserve the right to ignore bills that are boring and include some that are
31 interesting at whim. Remarks are purely my own and do not represent anyone's official position, probably not even
32 my own.

33 One interesting thing is that because of some technical requirements and the length of this session, HB 394 had
34 to be drafted to revise effective dates that were otherwise the default of July 1, 2021. Specifically, Article III,
35 Section 22, Idaho Constitution, says that "No act shall take effect until sixty days from the end of the session at
36 which the same shall have been passed, except in case of emergency, which emergency shall be declared in the
37 preamble or in the body of the law". So that date was May 2 for the July 1 effective dates. **LAW**

38 **1. PROBATE CODE, TRUSTS, ELDER LAW, AND RELATED AREAS**

39 **(a) Guardians and Conservators of Minors**

40 1. HB 191a. I stayed out of the way of this bill even though I have grave concerns about it. It permits
41 a parent or guardian to use the assistance of a temporary care assistance program operated by a

1 qualified nonprofit organization to identify an appropriate and safe approved temporary caregiver
2 to whom the parent or guardian can choose to delegate temporary care responsibility of a minor
3 through a power of attorney. Amendment added limit of six months and requirement of criminal
4 history and background check through H&W, and that the delegation has to be to the temporary
5 caregiver, not the program itself. And said specifically this does not affect any delegation of powers
6 in §15-5-104 that we created many years ago, or the provisions of the Child Protective Act (Title
7 16, Chapter 16). This came out of a national religious (sort of) entity that recruits what would
8 otherwise be foster care parents and puts them together with the parent or guardian. Not the parent
9 delegating to a family member or friend. Stay tuned. **LAW**

10 **(b) Developmental Disability**

11 **Hearing Time periods** SB 1036. Part of the ongoing change to time periods in C&G being in 7 day
12 increments. This one, brought by the Supreme Court, covers Developmental Disability cases,
13 changing a 10 day period to 14 days. Want to be sure that time periods don't end up on weekends.
14 **LAW**

15 **(c) Foster Care** HB 336. Passed both houses unanimously. Update laws pertaining to qualified group
16 homes for children in foster care. Specifically, it would:

- 17 (1) set a shortened time line for the department and courts to communicate and act on the child's
18 behalf;
- 19 (2) prioritize the best interest of the child when determining such placement;
- 20 (3) require the department more closely monitor the child when in a group home;
- 21 (4) require ongoing evaluation of potential alternative placements such as family reunification,
22 placement with a relative or foster family, or adoption; and,
- 23 (5) allows for extended care for youth aging out of the foster care system not to exceed age 21,
24 under limited circumstances.

25 Two specific objectives: first, to allow juveniles to stay in the system until age 21; second, to comply with
26 federal law to keep over \$2 million dollars in federal payments coming in to Idaho for foster care. There are
27 about 1,600 children in the Idaho foster care system as of 2020. About 19% are there because of family
28 abuse in the home. **LAW**

29 **(d) Juvenile Corrections** HB 26. Makes changes to Juvenile Corrections Act, removing use of "habitual
30 status offender" so that status offenders are not detained in secure facilities and some other definitions
31 changes to conform to actual practice and some nationwide standards. **LAW**

32 **(e) Electronic Wills Act** SB 1077. This was withdrawn by Commissioners after discussion with me and
33 some others and TEPI will have a review committee for next session.

34 **(f) Recording of Death Certificates** SB 1078. Amends §31-2402, Instruments To Be Recorded, to allow
35 recording of death certificates and to not allow County Recorder to refuse to record the documents listed
36 in subparts 1(a) through 1(n), which includes death certificates. Had been a problem when recording a
37 death certificate for a CPWROS deed or life estate or similar situations. **LAW**

38 **(g) Physician Assistants** SB 1093. Much of Idaho does not have physicians, so local care often by
39 physician assistant or RN with supervising physician, usually remotely. Existing system overburdened the
40 process, so simplified that system. **LAW**

41 **(h) Annuities** HB 79. Annuity Consumer Protections Act. Adopts a recent NAIC model regulation in statute
42 rather than rule. House hates rules. So moves some IDAPA provisions to the statute. States obligations
43 for insurance producers and insurers to act in best interest of consumer when making a recommendation
44 for an annuity, training, and supervision of recommendations to validate insurance and financial needs of

1 consumers. Clarifies several existing statutes. Barely passed House 34-33 with 3 absences but passed
2 easily in Senate. I say Amen. Spend too much time working with inappropriate annuities, especially in
3 Medicaid, but in EP for elderly in general. **LAW**

4 (i) **Child Support, Temporary Restricted License** HB 96. Allows a citizen who lost driver's license
5 because of non-payment of child support to petition the courts and show good cause why should be
6 granted a temporary restricted license to maintain or secure employment. Only negative votes were in the
7 Senate and were mostly Democrats. Not sure why. **LAW**

8 (j) **Child Protection Act Removal of Child** HB 233. Amends Title 15 Chapter 24, adding a new §16-2426A
9 on "Serious Behavioral Health Conditions – Prevention of Removal From Custody. H&W is directed to enter
10 into appropriate interagency agreements with an interagency clinical team to review cases, mostly where
11 children are at hospital or other treatment facility and to avoid removing child from custody of parent or
12 guardian. **LAW**

13 **2. TAX**

14 I am not currently going to have any detailed comments on all the various appropriation bills for transportation,
15 school funding, repeal of sales tax on groceries, etc. even though those may cause tax consequences, since that
16 will be analyzed to death in the media.

17 (a) **PROPERTY TAX**

18 **1. Property Tax Relief**

19 a. **Veterans** HB 120. Qualified disabled veteran who has applied before April 15th for the special
20 property tax reduction in §63-702 and §63-705A can transfer the property tax reduction or
21 occupancy tax reduction benefit by changing to new residence after April 15 but before October 1st.
22 **LAW** effective March 17, 2021.

23 b. **Circuit Breaker For Certified Family Home Reduction** HB 212 would have allowed someone
24 who is the homeowner of a Certified Family Home to apply for circuit breaker tax relief by
25 exempting the payment they receive from the State to care for someone in their home. There are
26 about 2,200 Certified Family Homes but not any collection of data on how many would be affected.
27 So cost of anything from \$264,000 to \$726,000, but more likely towards the lower end. Failed 32-34
28 in House with 4 absent.

29 c. **Agriculture Assessment** HB 252. Revises the § 63-604 definition of land actively devoted to
30 agriculture to include pivot corners or land that is used to support the agricultural use of the
31 qualifying property such as land that is used to store agricultural commodities or equipment. **LAW**

32 d. **Property Tax Deferral**. HB 309. Amends §§63-713, 716, and 717. Increases household income
33 limits, adjusts interest rate to that provided in §63-3045, includes properties that are part of a trust
34 or life estate, and increases total amount of funding available from existing \$500,000 to \$5,000,000.
35 **LAW** retroactive to January 1, 2021.

36 e. **Property Tax Relief, Maybe**. HB 389. Rep. Moyle's attempt to get something through. Series
37 of components:

- 38 1. Increases homeowners exemption to \$125,000.
- 39 2. Increases circuit breaker benefit to up to \$1,500.
- 40 3. Increases special disabled veteran property tax reduction to \$1,500.
- 41 4. Starting in 2022, imposes a value test to circuit breaker program. Earlier versions had a
42 total assets type of test, which was completely unworkable and got comments from me and

1 others. This version says that circuit breaker not available if your assessed value of your
2 residence exceeds 125% of the median assessed valuation for all homes in the county, then
3 goes to deferred tax under §63-712-721 instead.

4 5. Increases exemption for personal property taxpayers to \$250,000 and exempts transient
5 personal property.

6 6. Lot of provisions in the new construction and annexation provisions, including a total cap
7 of 8% on amount of valuation available to tax those, reduces the amount of forgone revenue
8 a taxing district can take for ongoing budget growth, with some provisions for one-time
9 capital projects. And delays entry of an improved property's market value on the new
10 construction roll until after the improvements are completed (no ability to play games there).

11 **LAW** But multiple cities are now passing moratoriums on new construction because of the
12 uncertainty about the methodology and effect of the new law. There is a distinct feeling that
13 this benefits commercial much more than residential properties.

14 (b) INCOME TAX:

15 1. **Compliance bill** HB 58 Updates the reference in §63-3004 from 2020 to 2021. The marriage provisions
16 are still, ineffectively absent US Supreme Court change, in the statute. Supreme Court does have a case
17 next session that could do that. But did not adopt change in federal law to IRC §461(1) so kept the 2020
18 version. That section limits the ability of noncorporate taxpayers (individuals and pass through entities) to
19 deduct business losses against nonbusiness income, in coordination with Section 469 on passive activity
20 loss limitations. (1) is specifically denies a deduction for "excess business losses". That was waived for
21 2021 largely so Idaho didn't waive to limit tax writeoffs (see HB 332 below). **LAW** retroactive to January
22 1, 2021.

23 2. Income Tax Bills

24 (a) HB 332 One of the many attempts to change income tax rates. Reduces all income tax brackets,
25 setting the top individual and corporate tax bracket to 6.5% retroactive to January 1, 2021, \$169.4
26 million in ongoing tax relief. One-time sales tax/income tax rebate, returning \$220 million to Idaho
27 taxpayers by a rebate check to 2020 personal income tax filers providing a minimum amount of \$50
28 for each taxpayer and dependent or 9% of income taxes paid in 2019 whichever is greater. Part of
29 the cost is covered by not conforming to some IRA codes in HB 58. Sent to Senate amending order
30 which is death and never came out.

31 (b) HB 380. So try again. Pretty close to HB 332. Reduces brackets to 5, sets topped individual and
32 corporate tax brackets at 6.5% retroactive to January 1, 2021 (\$162.9 million tax relief, so a little
33 smaller), one time sales tax/income tax rebate, same numbers. Same non-conformance in
34 compliance bill provisions. Not clear exactly what is different. **LAW**, with provisions retroactive to
35 January 1, 2021 (Sections 1 and 3) and the others (sections 2 and 4) the standard July 1, 2021.

36 (c) HB 170. Trailer to HB 58 (Compliance bill, above). "protects Idaho taxpayers from losing excess
37 losses subject to the limitation on §461(1) and allows those losses to be carried forward as NOL
38 for up to 20 years. Specific language in 63-2022:

39 (r) Add the excess business losses under section 461(l) of the Internal Revenue Code, as
40 required by section 63-3004, Idaho Code. The excess business losses may be carried
41 forward and deducted as an Idaho net operating loss under section 63-3021, Idaho Code,
42 successively over the next twenty (20) years succeeding the taxable year in which the loss
43 arises until such losses are exhausted. Excess business losses shall not be carried back.

44 **LAW** retroactive to January 1, 2018.

45 (d) HB 217. Creates a presumption in favor of the taxpayer to use a statement or invoice from a

1 credit card company or other financial institution as evidence that an expenditure was made by the
2 taxpayers. **LAW**

3 (e) HB 251. All one-time federal relief monies provided to Idaho businesses in 2020 are non-taxable
4 except for emergency rental assistance program funds, including Rebound Idaho Small Business
5 Grants, forgiven Paycheck Protection Program loans, and Economic Injury Disaster Loan advance
6 funds. **LAW** retroactive to January 1, 2021. Why not to January 1, 2020 when much of that would
7 apply? Number of reasons, including that would have required amended returns for 2020.

8 (f) HB 276. Relates to bonus depreciation, the accelerated depreciation allowed as a deduction for
9 federal income tax purposes but not for Idaho income tax purposes. Current law as interpreted by
10 STC said even if the bonus depreciation did not result in actual deduction at federal level (usually
11 because of passive loss or similar limitations), the bonus depreciation still had to be added back.
12 Created phantom income, since Idaho tax return starts with the federal tax return. Additionally,
13 messed with the tax basis in depreciation and could create phantom income on sale of the asset
14 before fully depreciated. So bill provides that Idaho taxable income does not include the bonus
15 depreciation add-back where the depreciation could not be used currently on the federal return, and
16 by permitting the taxpayer's basis in an asset for State income tax purposes to be reduced only by
17 the amount of depreciation actually allowed as a deduction on the Idaho return. Not common
18 situation but does happen. Brought by Idaho Society of CPA's. **LAW** retroactive to January 1, 2021.

19 (g) HB 317. Federal income tax has deductions for State and local taxes (SALT). Currently there
20 is a \$10,000 limitation on the federal deduction for SALT. In 2020, IRS released Notice 2020-75,
21 approving the availability of a SALT limitation workaround for pass-through entities. That
22 workaround is provided in this bill for owners, partners, members, and shareholders in partnerships,
23 LLC's, and S corporations by allowing the pass through entity to pay Idaho tax at the entity level.
24 **LAW** retroactive to January 1, 2021. Biden proposals do not include changing the SALT limit.

25 (h) HB 390. Another of the last minute attempts to get everything finished. Clarifies that qualified
26 payments made directly to households from the Emergency Rental Assistance Program and used
27 to pay rent or utilities is not taxable income. ERAP payments to a landlord are taxable. And
28 gratuitously tossed in another shot at allowing the actions of the STC chair or staff to be reviewed
29 by STC commission. Passed House but defeated in Senate 26-9.

30 (c) **BOND ELECTIONS**

31 1. HB 66a. Multiple bills over the years on bond elections. This one sets a series of requirements that have
32 to be listed in a brief official statement in "simple, understandable language that goes on the ballot prior
33 to where vote is cast. Court can declare election invalid if not followed and award fees and costs. **LAW**

34 (d) **STATE TAX COMMISSION**

35 1. HB 214. Another of the battles between the legislature and the administration side of government. It
36 would have required the advice and consent of the STC if the chairman assigned responsibility for
37 personnel, budgetary, and/or fiscal matters of the STC. And permit review of unilateral actions of the
38 chairman by STC upon request of a commissioner. **VETOED** and House vote to override passed on party
39 line vote but Senate failed 21-14, with 5 Republicans changing sides. Governor veto letter said the bill
40 "undermines the original intent of the Legislature that wisely assigned to the Chairman, or his designee,
41 the responsibility for the day-to-day administration functions of the Tax Commission so that the individual
42 Commissioners remain free to dedicate their time and expertise on ensuring the predictable, consistent,
43 and fair application of tax law to Idaho's taxpayers."

44 (e) **SALES TAX**

1 1. HB 171a. Shifts the burden or obligation of establishing a sales tax exemption or resale certificate to the
2 purchaser rather than the seller. And the purchaser providing that exemption or resale certificate to a seller
3 bears all responsibility and liability for any subsequent audit of the transaction and seller is held harmless.
4 The amendment was pretty extensive but mainly added a lot of detail on what has to be in certificates.
5 Apparently some games going on with certificates. **LAW**

6 (f) **TAX APPEALS**

7 1. HB 277. Allows taxpayers the right to have another person of their choosing represent them in a hearing
8 or rehearing held on the taxpayer's appeal before the Board of Tax Appeals. **LAW**

9 **3. COVID AND RELATED ISSUES**

10 Huge battles this year between the Governor's office (and therefore some administrative departments) and the
11 legislature over emergency powers. Multiple bills were proposed (starting with HBs 1 and 4, and SB's 1001 and
12 1002 and 1003, which shows the priority the legislature put on this, but which never got out of committee) and a
13 few made it through the legislature.

14 (a) **Vaccination** HB 298 amends §39-4801 and 4802, requires school officials to notify parents or
15 guardians of their right to vaccine exemptions. Preschool through grade twelve students are in Idaho code
16 39-4802. Any notifications to parents or guardians regarding vaccinations must include a verbal (oral)
17 description of their right to exempt their child. **LAW**

18 (b) **Emergency Powers etc.** A slew of bills.

19 1. SB 1134. Amends current §46-1005A to allow recovery of federal funds after Declaration of State
20 Emergency has expired or terminated. Limits transfer of funds to the Disaster Emergency Account
21 to one percent (1%) of annual General Fund appropriations. **LAW** effective Mari 14, 2021.

22 2. SB 1136a. Martial law. **VETOED** by Governor on grounds of separation of powers. Would have
23 severely limited the Governor's ability to act during state of extreme period and denied the ability
24 of the Governor to alter, adjust, or suspend any provision of the Idaho Code in certain instances.
25 Override vote failed in Senate by one vote 23-12, against with 5 Republican Senators joining the
26 Democrats who voted no on the bill itself.

27 3. HB 135a. Again, a limit on the ability of the Governor to declare and extend a declaration of
28 disaster emergency. **VETOED** by Governor. House overrode but Senate did not, by one vote with
29 two absent.

30 4. SB 1139. Clarified definitions in §56-1001 like "quarantine" and "isolation" and also "clarifies"
31 (that means restricts) the powers of the Director of H&W in §56-1003 relating to rules and issuing
32 of isolation, quarantine, and restricted access and adds language to allow for request to the courts
33 for review of an order issued by the Director. And the battle goes on. **LAW**

34 5. HB 149. Extended a limited immunity from liability in the Coronarius Limited Immunity Act
35 (Chapter 2, Section 3) to extend the sunset date to July 1, 2022. **LAW**

36 6. HB 246a. In Idaho Parental Rights statutes, stating that an emergency order, disaster
37 declaration, etc., cannot be deemed a compelling governmental interest that would allow
38 abridgement of parent rights as described in §32-1013, including that could not justify: "Forced
39 medication action on child; Forced removal of a child from the home; or the violation of or
40 interference with a parent's fundamental and established rights protected by the Idaho parental
41 rights act." **LAW**

1 7. HB 391, 392, 393. And now new bills, watered down from the prior attempts that were vetoed.
2 House did not adjourn, not go sine die, so come back for attempts to override any additional vetoes
3 or to pass additional bills. Was sitting on Governor's desk, which is why the legislature is in recess
4 in case an override vote is required. But he signed all three, although reluctantly. It would be cynical
5 of me to propose that the Governor let one or more of these become law in return for not overriding
6 his vetoes, above. So I won't say that. **LAW**

7 (c) **Excessive Increased Prices During Emergencies** SB 1041. Existing statute §46-603 amended to
8 clarify that excessive pricing during a declared emergency applies to exorbitant or excessive increased
9 prices to the consumer rather than the margin between wholesale and retail prices and with other factors
10 to consider even if increased price. **LAW** effective March 17, 2021.

11 (d) **Catastrophic Health Care Program** SB 1081. Another of the House vs Senate situations. The Senate
12 passed easily a transfer of \$6,000,000 to the CAT fund. House turned in down 33-35.

13 (e) **Catastrophic Line of Duty Benefits** SB 1096. Creates a new classification of catastrophic disability
14 benefit under PERSI for police officers and firefighter members who are catastrophically injured in the line
15 of duty. **LAW**

16 (f) **Special Sessions**

17 1. SB 1112aa. Provides a process to petition the Speaker of House and President Pro Tempore (Lt
18 Gov) to call a Special Session of the legislature. Has to have specific purposes. If 60% of the
19 members of both House and Senate sign the petition, goes to Secretary of State, who notifies the
20 Speak and President Pro Tempore, who issue a joint proclamation calling for the Special Session.
21 Convenes not sooner than 48 hours and no later than 15 days unless emergency. Takes
22 precedence over any extraordinary session convened by Governor. Passed Senate on mostly party
23 line vote, died in House without a vote.

24 2. HCR 22, somewhat related. Approves recess subject to the Call of the Speaker and President
25 Pro Tempore of Senate to no later than September 1, 2021. So not Adjourn sine die, just recess
26 and come back when want to, no limits on what cover. Never came out of House committee.

27 3. SJR 102. Proposes and amendment to the Idaho Constitution to establish provisions for
28 convening the Legislature for special or organizational sessions. **ADOPTED**

29 (g) **ARPA** SB 1204. American Rescue Plan Act of 2021 on federal level gives large money to Idaho. So
30 this says where it goes so the Governor doesn't get any ideas. **LAW** effective May 10, 2021.

31 (h) **Health Care Ordinances by Cities** HB 74. Limits application of health ordinances to city limits,
32 amending §§ 50-304 and 50-606 to comply with Idaho State Constitution Article VII Section 2. Mainly to
33 tell City of Boise not to try to tell Meridian what to do in my humble opinion. **LAW** effective March 12, 2021.

34 (i) **Remote Participation in Meetings of Nonprofit Corporations** HB 103. Existing law allowed that for
35 profit corporation shareholders and directors and for non-profit corporation directors. This updates to allow
36 members of non-profit corporation to use remote attendance to extent authorized by the Board of Directors.
37 **LAW**

38 (j) **In Person Instructions During Emergency** HB 175. Provides students with access to in-person
39 instruction when safety requirements can be developed at the local level, especially for special needs and
40 elementary students. Brought by Dept of Education. **LAW**

41 **4. MISCELLANEOUS**

1 (a) **Abortion**

2 1. First Fetal Heartbeat Bill (SB 1085) never got out of committee. Second version, HB 366, passed
3 on party line votes and has been signed by Governor. Exceptions for rape, incest, and life of the
4 mother. Not effective until issuance of any decision upholding a restriction or ban on abortion of a
5 preborn child with a heartbeat by any United States appellate court. Number of other States have
6 this or similar language. 9th Federal District would be unlikely to uphold so any such case would
7 come from a different jurisdiction. But, there is a US Supreme Court case on docket for next
8 session that could do that in a Texas case. **LAW**

9 2. HB 302 Down Syndrome. Amends Informed Consent Law to require information specific to
10 babies diagnosed with Down Syndrome, whose abortion rate may be as high as 90%. H&W is
11 provide mothers in such circumstances with information about resources available, in both public
12 and private sectors, to help support a decision to not abort. My older sister was Down Syndrome.
13 She and many of my GaL cases that are Down Syndrome are the sweetest most loving kids I have
14 known. Many can be high functioning. **LAW**

15 (b) **Time Periods** The Idaho Supreme Court is trying to get a time periods to run in 7 day increments to
16 avoid things coming due on weekends etc. Number of bills, just corrective. SB 1036 for example for notices
17 in adoptions. **LAW**

18 (c) **Hands Free Devices** HB5. In IC 49-1401A, Distracted Driving, the use of global positioning or
19 navigation systems features in a mobile electronic device by the operator of the vehicle is allowed. This
20 bill clarified that only if hands-free. Had a lot of opposition (39-28 in House and 19-15 in Senate). Brought
21 by insurance industry. **LAW** effective March 8, 2021.

22 (d) **Industrial Hemp, CBD, Medical Marijuana**

23 1. Industrial Hemp HB 126. Can now grow and transport hemp in Idaho as long as THC content
24 doesn't exceed 0.3%. Last State in the US to finally do this. But can't do sale to consumers if any
25 any any THC. Can you continue to sell CBD oil under 0.3% THC content, which is federally legal?
26 I read the entire very long bill and not clear to me. Seems to me the import of the bill is to restrict
27 Idaho growers and transporters, but that is just my assumption. Will have to see what the Rules
28 developed by Dept of Ag come up with. **LAW** effective April 12, 2021.

29 2. Synthetic Cannabinoids etc. SB 1017 From the Idaho Board of Pharmacy. Amends the Idaho
30 Uniform Controlled Substances Act to match the federal Drug Enforcement Administration decisions
31 for 2020, including putting synthetic cannabinoids on Schedule I, an opiate in Schedule II, and
32 another substance in Schedule V. So says that:

33 "Marijuana" does not include drug product in finished dosage formulation that has been
34 approved by the United States food and drug administration that contains [long chemical
35 string] derived by cannabis and no more than one-tenth of one percent (0.1%) residual
36 tetrahydrocannabinols.

37 That is part of the answer to the question I asked in 1, above, about CBD oil etc. **LAW**

38 (e) **Firearms** SB1205. Stated to be a reaction to President Biden's executive orders etc. on gun control.
39 Over 56% of Idahoans own a firearm, third highest in US - 49,566 registered in Idaho as of 2020, and a
40 lot not registered. The Statement of Purpose says:

41 The Idaho Firearm and Firearm Accessories and Components Protection Act builds upon, without
42 resetting, the action taken by the Idaho legislature in 2014 under the Idaho Federal Firearms,
43 Magazine, and Register Ban Enforcement Act codified in Idaho Code Section 18-3315B which

1 prohibits local officials from being ordered to enforce federal actions contrary to the Idaho
2 Constitution. This bill seeks to protect the rights of Idaho citizens under Section 11, Article 1 of the
3 Idaho Constitution regarding new federal executive orders and other actions by prohibiting Idaho
4 government entities from enforcing or supporting the enforcement of these new federal actions
5 regarding firearms and firearm accessories and components that violate the Idaho Constitution.

6 **LAW** retroactive to January 20, 2021.

7 **(f) Initiatives**

8 SB 1110. Significantly limits the ability of Idaho citizens to get a ballot initiative qualified. Existing
9 law was 6% of all registered voters in Idaho (not 6% of all who actually voted) in at least 18
10 legislative districts - what that means is had to have 6% of the registered voters in the districts you
11 turned in and 6% of the statewide registered number. Bill changes that to all 35 legislative districts
12 and removed the statewide requirement. Obviously, getting not less than 6% in every district means
13 you would have 6% statewide.. So net effect is that one district not getting proper number of
14 signatures kills the qualification. Guess what all that was aimed at?

15 Statement of Purpose says:

16 The purpose of this legislative is to increase voter involvement and inclusivity in the voter
17 initiative/referendum process. This will be accomplished by ensuring signatures are
18 gathered from each of the 35 legislative districts, so every part of Idaho is included in the
19 process.

20 I thought that the actual vote on the initiative/referendum, if qualified by sufficient signatures, would
21 be a state-wide vote in order to pass but apparently not. Passed on party line vote. **LAW** But lawsuit
22 has been filed by Reclaim Idaho. and Committee to Protect and Preserve the Idaho Constitution
23 (committee of attorneys).

24 SB 1150aaH provides that those who circulate petitions and gather signatures for ballot initiatives
25 and referendums must collect them in the State of Idaho and must certify that they were physically
26 located in the State of Idaho at time of signing. Passed Senate on mostly party line vote, but House
27 sent to Amending Orders. Usually a sign it will die but there was a flurry of amendments primarily
28 by Rep. Brent Crane. It did come out of committee in House with Do Pass recommendation. House
29 passed 35-25 as amended on a literally last minute basis so went back to Senate to see if they
30 concur. They did but Governor **VETOED**. His concerns, which were pretty general, were that the
31 amendments allowed signatures from Idaho citizens who signed outside the State if they were
32 military members or missionaries. But what about family of military, or citizens who were not either
33 military or missionaries?

34 **(g) Spousal Rape** SB 1089a. This cleaned up some problem areas in the criminal definitions of spousal
35 rape. Totally repealed §18-6107, Spousal Rape. Realistically, prosecutors were not charging that offense.
36 And clarified that being married to an underage spouse was not statutory rape. So rape is rape regardless
37 of relationships. **LAW**

38 **(h) Wrongful Conviction** SB 1027 and SB 1200. Compensates wrongfully convicted and imprisoned
39 persons at \$62,000 per year of incarceration, \$75,000 per year on death row, \$25,000 for each year on sex
40 offender registry. Have to claim within two years of court order of exoneration. SB 1200 as a trailer clarified
41 that the time periods include time awaiting trial. SB 1027 **LAW** effective March 5, 2021. SB 1200 was
42 amended in House April 26 regarding death row definition to time "actually served related to the charge
43 giving rise to death row imprisonment", amended so back to Senate on amendment, who agreed. **LAW**

44 **(i) Wolves** SB 1211. Instead of Elmer Fudd singing "KILL THE RABBIT", the legislature is singing "KILL

1 THE WOLVES". Essentially allows for up to 90% reduction in number of wolves in Idaho by various means,
2 including hunting permits (unlimited), use of private contractors, wolf trapping year-round on private
3 property (not just your own). Party line vote in Senate, passed House, so on way to Governor. **LAW**

4 (j) **Owner Liability for Recreation** SB 1020. Amends §36-1604, Limitation of Liability of Landowner,
5 including that recreational activities includes traveling across the land owned by others for purpose of
6 recreating. Part of the ongoing battle over what is trespass and who is liable. **LAW**

7 (k) **Write-in Candidates and Signature Verifications** SB 1062. Couple of changes. First, write-in
8 candidates for US President must provide VP selection and Electors to Idaho when file their declaration
9 of candidacy as a write-in. Second, petition for independent candidates for all partisan offices are on forms
10 prescribed by Secretary of State, modeled on the format used in recall petitions. By Secretary of State's
11 office. **LAW** A number of bills on elections passed one house but died in other.

12 (l) **Adverse Possession** SB 1073. Expands exemption of water delivery facilities from claims of adverse
13 possession. **LAW**

14 (m) **Israel Anti-Boycott** SB 1086. I was heavily involved in this bill. 32 other States had already passed
15 similar bills and US Congress had previously done bipartisan policy about opposing boycotts of friendly
16 nations (meaning Israel). This provides that as a condition of any contract with the State of Idaho, any
17 person/entity etc. contracting with the State of Idaho must sign a certification that it is not engaged in, and
18 will not be engaged in for duration of the contract, boycott of Israel or its products etc. Only applies if over
19 \$100,000 contract or 10 or more employees. Is on the honor system. Simple one page certification. **LAW**

20 (n) **Smoking Age** Another Senate – House conflict. SB 1087 raised the age for legal possession and use
21 of tobacco products and electronic smoking devices to age 21. Passed Senate easily but defeated handily
22 in House.

23 (o) **Fees for Residential Tenants** SB 1088. You guessed it. Senate passed easily and House killed it.
24 Would have limited rental fees and require them to be enumerated in lease agreements.

25 (p) **Vacation of Rights of Way** SB 1101. Existing law didn't adequately cover what happens when existing
26 but undeveloped subdivision plats reconfigure dedicated public right-of-way, requiring compensation for
27 the right-of-way to be vacated. So this bill allows an exchange in essence without having to pay
28 compensation. **LAW**

29 (q) **Electronic Motor Vehicle Registration** SB 1102. Allows electronic interaction with Idaho
30 Transportation Department. Some development costs, but should then not only save costs but eliminate
31 the sit and wait experience that can last many hours. Small fees for the privilege. Should reduce annual
32 local DMV transactions by 211,000 per year. **LAW**

33 (r) **US Supreme Court** SJM 102. Urges Congress to propose an amendment to the US Constitution to set
34 the number of justices on the Supreme Court at nine. Good luck. **ADOPTED**

35 (s) **Security Deposits** HB 152. Requires that security deposits for rentals managed by a third party
36 manage must be held in a separate account at a federally insured institution. Tight votes in House and
37 Senate (37-31 and 20-15). **LAW**

38 (t) **Reindeer** HB 166. Removed a prohibition on use of reindeer for domestic purposes north of Salmon
39 River. Sponsor was Santa Claus. **LAW**

40 (u) **Verification of Signatures of Electors and Petition Signers** HB 290. The purpose of this legislation
41 is stated to be to ensure the security of absentee voting and the validity of petition signatures by clarifying
42 the requirement that county clerks verify voter signatures in these instances. A recent Idaho district court

1 decision held that it is not reasonable to interpret the existing statutes to say that county clerks should be
2 verifying signatures on a recall petition, which has been standard practice across the state. Clarifies
3 requirements to ensure these practices continue for all instances where signature verification is currently
4 relied upon. It also requires the Secretary of State to provide training and guidance on how signatures are
5 to be verified and clarifies that petition signatures are to be physical signatures and not electronic. **LAW**
6 effective April 19, 2021.

7 **(v) Right of way and Easements for Irrigation** HB 307. Multiple subparts relating to current legal battles.
8 One deletes §42-1101, which appeared to recognize riparian doctrine, which Idaho courts have long said
9 does not apply in Idaho. Clarifies rights and obligations associated with operating, cleaning, maintaining,
10 and repairing rights-of-way and easements, including right to remove debris from the right-of-way and
11 amends same section (42-1102) to codify the common law standard applied by Idaho courts on the extent
12 to which debris may be deposited on a right-of-way easement under the “rule of reasonableness” as
13 “reasonably necessary”. Clarifies that the rights and obligations of irrigation entities applies to existing
14 embankments and facilities. Brought by Idaho Water Users Association. **LAW**

15 **(w) Public Education Dignity and Nondiscrimination** HB 377. New section 33-138. Essentially that
16 teachers and administrators etc. at public schools, charter schools, and higher education, “respect the
17 dignity of others, acknowledge the right of others to express differing opinions, and foster and defend
18 intellectual honesty, freedom of inquiry and instruction, and freedom of speech and association. Calls out
19 critical race theory and says:

20 (3) In accordance with section 6, article IX of the constitution of the state of Idaho and section
21 67-5909, Idaho Code:

22 (a) No public institution of higher education, school district, or public school, including a
23 public charter school, shall direct or otherwise compel students to personally affirm, adopt,
24 or adhere to any of the following tenets:

25 (i) That any sex, race, ethnicity, religion, color, or national origin is inherently
26 superior or inferior;

27 (ii) That individuals should be adversely treated on the basis of their sex, race,
28 ethnicity, religion, color, or national origin; or

29 (iii) That individuals, by virtue of sex, race, ethnicity, religion, color, or national origin,
30 are inherently responsible for actions committed in the past by other members of the
31 same sex, race, ethnicity, religion, color, or national origin.

32 **LAW** effective April 28, 2021.

33 **(x) Birth Certificate and Adoption** HB 59. Amends current law to provide that original birth certificate and
34 other records will be made available upon request to adoptees for adoptions that occur on or after July 1,
35 2021. On 14th Order in Senate when they adjourned, so did not make it. I have concerns about this opening
36 up of records, but at least is prospective only. The actual language in §39-258:

37 (9) For adoptions that occur on or after July 1, 2021, the provisions of this section shall apply,
38 except that:

39 (a) The natural or adoptive parentage of each parent shall be demonstrated as determined
40 by the registrar on the face of a new birth certificate described in subsection (6) of this
41 section; and

42 (b) A copy of the original birth certificate, all medical and demographic information contained
43 in the sealed file, and the report of adoption must be provided upon the signed request of
44 the adoptee who is named on the birth certificate or such adoptee's legal representative,
45 provided that the adoptee must be aged eighteen (18) years or older, and provided further
46 that the bureau of vital statistics is not obligated to provide court records to such adoptee
47 under the provisions of this paragraph.

1 **5. LICENSE PLATES** Every year I think we are done with all these, but no.

2 (a) Seven years ago SB 1243 provided that, effective January 1, 2013, and going forward, specialty plates
3 will be limited to State and other public agencies or foundations supporting the interests of State and/or
4 local government, but outside groups promptly figured out how to get around that. Four years ago HB 169
5 amended §49-402D to clarify that legislation regarding specialty license plates is not subject to rejection
6 or approval by the Idaho Transportation Department, and that the legislature can pass such legislation
7 before, during, or after the application process, but that the plates will not be printed until all the
8 prerequisites to the Department of Transportation specified in section 2 of §49-402D have been met.

9 (b) As usual, a number of bills didn't make it (special designations on veterans license plates). But HB 85
10 (my old football and current hockey jersey number) allows a Purple Heart recipient to have more than two
11 vehicles with Purple Heart license plates, which is the current restriction. Cost the same as a regular plate.
12 Cost to Idaho over next ten years – \$662.40. I would chip that in for this. **LAW** And HB 165 creates a
13 “custom vehicle” license plate for replica vehicles that would otherwise qualify for Idaho classic license
14 plates. Why not a replica license plate instead? **LAW**

15 **ISSUES FOR NEXT YEAR**

16 At this time, TEPI does not intend to present any legislation in the 2019 legislature. The main things TEPI will be
17 doing:

18 1. Where is C&G going? I was an Observer on the Uniform Laws Commission committee revising Chapter
19 5 of the Probate Code (C&G). Final version was adopted by the Commission July 2017, with final
20 Comments coming months later. The proposed language is quite different in many areas from our existing
21 law, since it was based on the 1997 revision that went nowhere. I have made some suggestions to the ULC
22 which have been integrated. Who will present any bill that results from this remains to be decided. Will
23 require vast amount of time commitment over 2-3 years. We are meeting monthly for 2-4 hours.

24 2. TEPI has been studying the whole 2010 UPC, except for Chapter 5, in comparison to our existing
25 statutes to see if want to adopt more of the UPC as it now reads nationally. Has already been a great
26 amount of time spent and probably years left to get to a final draft. There are a lot of provisions that we will
27 not want to adopt and some that we will. Who will present any bill that results from this also remains to be
28 decided. Not meeting for now until C&G is finished.

29 3. TEPI has been working on a new edition of the C&G Forms book - only one edition ever published,
30 compared to 3-4 editions for the probate forms book. We may wait until the C&G provisions are in place
31 as amended before continuing with this. Existing system seems to be working well enough.

32 4. TEPI will be reviewing the Uniform Electronic Wills Act for next session.

33 IHCCA (Idaho Continuum of Care Association) is working on completing the transition of the Medical Directive
34 Registry to the Dept of H&W. Additionally, will be some major changes to the POST form and to the Medical
35 Directives, which may or may not require legislative changes.