

The 2021 Session of the Idaho Legislature has come to an end for all practical purposes, if not officially. This year's turbulent proceedings set a record for the longest session in Idaho state history at 122 Days. Yet, due to an unusual maneuver by leaders in the House of Representatives, the session will technically remain open until the end of the year, leaving its results in a bit of uncertain legal limbo. Overall, it is fair to say that the distractions, political posturing over hot-button issues, and inconclusive end of session, at times, created a chaotic legislative environment, reflective of the country's divided political zeitgeist.

That said, Idaho lawmakers did make significant legislative progress on issues that will benefit Idaho's credit unions, while also taking critical steps to benefit our rapidly growing state.

### GENERAL OVERVIEW OF 2021 LEGISLATIVE SESSION

On May 12, the Idaho State Senate adjourned sine die (Latin for "without day") ending their legislative work for the 2021 legislative session. Historically, the Idaho House of Representatives would have quickly followed suit, thus completing, and calling a final end to that year's session. Instead, the Idaho House took steps to put themselves in a long-term, extended recess, which is scheduled to come to an end on December 31, 2021, just prior to the kick-off of the 2022 Legislative Session.

In interviews and discussions, Idaho House leaders expressed concern about whether they would be given a proper opportunity to be involved in any additional state budget decisions if the Biden Administration or the U.S. Congress were to provide additional stimulus money to the states. Recessing the session, rather than adjourning, gives House leaders the option to re-convene and request the Senate join them in re-constituting the 2021 session. Otherwise, they would have to rely on Governor Brad Little to call a special session to provide input on potential funding decisions.

In taking this step, the House may have sparked a constitutional controversy and legal challenges that could have ramifications for the operation of the state. The Idaho State Constitution (Article III, Section 9) states that "...Neither house shall, without the concurrence of the other, adjourn for more than three days..."

Chief Deputy Attorney General Brian Kane has acknowledged the state finds itself in a unique circumstance that could render the Senate's adjournment invalid without concurrence by the House. The normal sine die adjournment of both chambers triggers several mechanisms within the state operations that did not occur under the current circumstances. The result could be legal challenges. For example, the rules of the Legislature state that all laws will go into effect 60 days following adjournment of the Idaho Legislature or on July 1. Legal challenges could question the validity of any legislation that, technically, did not go into effect because the Legislature, technically, has not adjourned. At this point, we will have to wait and see how it all unfolds.

### POLITICAL INFIGHTING AND GAMESMANSHIP

The controversy, lack of congeniality, and downright nasty politics of the legislative session has, unfortunately, spilled over into the legislative off-season.

Almost immediately following the quasi-end of the 2021 legislative session, several sitting Republican leaders have announced their intent to challenge other sitting Republican elected officials in upcoming elections – an unusual development in a state where GOP-dominance and party ties have kept contested primary election battles to a minimum. Those candidates will be discussed in more detail later in this report; however, it is clear that this dynamic of intra-GOP tension can be expected at least throughout 2021 and into 2022.

Highlighting this gamesmanship, Lt. Governor Janice McGeachin, while standing in for an out-of-state Governor Little, in early May, signed an executive order to eliminate any and all mask mandates that were currently in place within the State of Idaho. Upon his return home, Governor Little quickly reversed the order, calling the action “an irresponsible, self-serving political stunt” and an “abuse of power.” In a statement, Governor Little said, “The executive order unilaterally and unlawfully takes away authorities given to the state’s mayors, local school board trustees, and others.” Continuing he said, “How ironic that the action comes from a person who has groused about tyranny, executive overreach and balance of power for months.”

In July, there were also calls for the Legislature to come back into session to block planned actions by several large health care organizations requiring employee vaccinations. Lt. Governor McGeachin has formally requested the House return to session to block the mandates, which would take effect as soon as September. In a letter to Idaho House Speaker Scott Bedke (R-Oakley-27), McGeachin stated that the hospitals’ mandate “has left numerous employees with these major health care companies with little recourse for not wanting to take the emergency use authorized vaccine.”

In response, the Idaho Association of Commerce and Industry (IACI) came out strongly against any legislative intervention that would prohibit Idaho businesses from making “decisions that are in the best interests of their operations.” IACI’s letter to the Idaho Legislature cited numerous reasons employers need the ability to require certain conditions or equipment. For example, to ensure the health and safety of employees and customers, including drug testing, background checks, uniforms, medical clearances, masks, ventilators, safety equipment, and vaccinations.

In the letter to legislators IACI stated, “The reality is that an employer should not be forced to keep an employee who does not adhere to the standards and requirements of the enterprise.” The letter continued, “As an example, an engineering company needs to send an engineer to another country to perform their work will usually require multiple vaccines specific to the country or region. If the engineer refuses, then the employee is no longer of value to the company. Why should the employer be required to keep them on the payroll? The examples are numerous. The rights of employees to find work elsewhere are not being violated in any way.”

The NWCUA Advocacy Team will closely monitor this unfolding situation and keep our members apprised of the Legislature's potential actions to limit employers' ability to put measures in place to protect the health and safety of employees, members, customers, and the public.

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**“A tightly held tenet of the Republican Party is to stay out of the employer-employee relationship.”**  
Scott Bedke  
Speaker of the House  
In speaking of  
McGeachin's letter

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## 2021 LEGISLATIVE AGENDA

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The Northwest Credit Union Association maintained three priorities for the 2021 Session of the Idaho Legislature:

- 1 Protecting the credit union tax exemption in the State of Idaho;
- 2 The NWCUA Board of Directors approved the legislative priorities and agenda recommended by the Idaho Governmental Affairs Committee (GAC) in the summer of 2020. The legislative priorities were based on feedback from Idaho credit unions, and ideas gleaned from a review of other credit union acts around the country;
- 3 Protecting Idaho credit unions from new and/or burdensome regulation and requirements.

### **Successful Legislation Developed and Supported by NWCUA**

The NWCUA is pleased to report that Idaho credit unions were successful in gaining passage of three legislative proposals directly related to credit union operations during the 2021 Legislative Session, which are outlined below:

#### **HB 49 – Emergency Perfection of Vehicle Titles**

The NWCUA took the lead in working with Idaho legislative leaders and the Idaho Transportation Department (ITD) regarding the concerns that surrounded the backlog in properly perfecting vehicle titles during the COVID pandemic. HB 49 was passed to help provide an emergency protocol to protect financial institutions from losing their legal rights on secured assets during the time of a titling backlog. After the legislation was signed by Governor Little, the NWCUA worked with ITD to publish the standardized emergency title letter that can be used, until the backlog is resolved; in the meantime, ITD is working diligently to avoid using the emergency protocols. Broader conversations about the intricacies of the process and where backlogs have occurred has continued in recent weeks.

*Status: Passed by the Legislature and signed into law by Gov. Little.*

*Effective Date: January 1, 2021*

*Senate Sponsor: Sen. Carl Crabtree (R - Grangeville - 7)*

*House Sponsor: Rep. Terry Gestrin (R - Donnelly - 9)*

#### **SB 1131 – Garnishment Alignment & Clarification**

This legislation was developed by the NWCUA and the Idaho Banker's Association (IBA) in order to align Idaho's garnishment "look back" periods with that of federal law, establishing a 30-day window during which a single garnishment can remain open, and to increase the research and filing fees paid for garnishments.

*Status: Passed by the Legislature and signed into law by Gov. Little.*

*Effective Date: July 1, 2021*

*Senate Sponsor: Sen. Todd Lakey (R - Nampa - 12)*

*House Sponsor: Rep. David Cannon (R - Blackfoot - 31)*

#### **SB 1102 – Electronic Titling and Registration for Vehicles**

This bill allows third-party vendors to apply for a technology license at the Idaho Transportation Department (ITD) to electronically process vehicle titles and registration through a secure platform tied into the ITD system. NWCUA testified and provided letters of support for this legislation in order to get it finalized. The bill sponsor and NWCUA expect the initial API will be established, tested, and the program up and running by the end 2021.

*Status: Passed by the Legislature and signed into law by Gov. Little.*

*Effective Date: July 1, 2021*

*Senate Sponsor: Sen. Lori Den Hartog (R - Nampa/Meridian - 11)*

*House Sponsor: Rep. James Holtzclaw (R - Meridian - 20)*

## **ADDITIONAL LEGISLATION DIRECTLY RELATED TO CREDIT UNIONS**

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There were a host of issues that the NWCUA consulted on, tracked, and provided input on throughout the 2021 Idaho Legislative Session, some of which we wanted to bring to your specific attention:

#### **HB 126 – Legalization and Agricultural Development of Industrial Hemp**

This legislation amends Idaho code to allow for the legal growth of industrial hemp. Those credit unions supporting Idaho's farmers may be seeing a new crop option for local farmers as well as supportive operational spending and request for loans around this new commodity.

*Status: Passed by the Legislature and signed into law by Gov. Little.*

*Effective Date: July 1, 2021*

### **H0149 – Extension of the Sunset Date for COVID-19 Limited Immunity**

This bill provides an extension of the legal immunity and protections provided to businesses, schools, and religious organizations from COVID-19-related legal actions or damages. The sunset of the immunity protections has been extended to July 1, 2022.

*Status: Passed by the Legislature and signed into law by Gov. Little.*

*Effective Date: January 1, 2021*

### **H0107 – Update of the Revised Uniform Law of Notarial Acts (RULONA)**

In 2017, the Secretary of State proposed legislation that was subsequently passed by the legislature as the Revised Uniform Law of Notarial Acts (RULONA), which included a clause that cured minor deficiencies contained in notarial acts; however, RULONA did not apply retroactively, so notarial acts conducted prior to 2017 could have been subject to disparate treatment by the courts. The NWCUA worked with the Secretary of State, the Idaho Banker’s Association, and the Land & Title Association to move this update forward in order to ensure our institutions were protected in bankruptcy proceedings.

*Status: Passed by the Legislature and signed into law by Gov. Little.*

*Effective Date: January 1, 2021*

### **HB 152 – Rental Property Security Deposits**

House Bill 152 establishes parameters around how landlords and property managers handle security deposits, requiring that the deposits be placed and maintained in a separate account at a federally insured financial institution. During deliberations over the legislation, our advocacy team worked to incorporate privately insured institutions in the bill language; however, we were asked to request that change in separate legislation, which sponsors will bring forward in future years. We will be working to include privately insured credit unions in the definition of an approved account for tracking and holding security deposits.

*Status: Passed by the Legislature and signed into law by Gov. Little.*

*Effective Date: July 1, 2021*

## **ISSUES TO CLOSELY MONITOR IN 2022 AND BEYOND**

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During the last legislative session, the NWCUA Advocacy team continued to defend Idaho credit unions against historic issues, such as maintaining our not-for-profit, cooperative tax status. That said, following the lengthy and still unresolved proceedings of the Idaho Legislature there are several other issue areas that were front and center in the 2021 session that will likely be back in front of the Legislature in future years. We want to ensure that the Idaho Credit Union Advocacy Army is prepared when these issues or measures reappear in future legislative sessions:

**Tax Exemptions for Banks in Idaho (including the national banks)** – the IBA has initiated discussions with many members of the House and Senate tax and revenue committees regarding their desire for a tax exemption for themselves. The current proposals would include, but are not limited to, an exemption for origination fees for agricultural and ranch mortgage loans, origination fees for PPP loans, and potentially additional exemptions in the commercial or business arena that we expect will be presented in the 2022 Legislative Session. Your Association has been actively educating legislators regarding the potential challenges of these legislative concepts, specifically the fact that the exemption will remove enumerable taxpayer dollars from the state and send them to out-of-state banks, as they would not be able to limit the exemption to only state-chartered banks. Thus, the state would be providing significant tax exemptions to the likes of Chase, Wells Fargo, US Bank, and Zions, along with our smaller Idaho-based community banks. However, the likely broad beneficiaries would not be the Idaho-based institutions or their local customers. At the same time, we are providing information about the importance of the credit union structure, value, and the impact Idaho credit unions are making for their individual and business members and their local communities.

**Sales tax exemption on interchange** – Sen. Mark Harris (R - Soda Springs - 32) has identified the removal of sales tax on interchange as an issue he believes needs to be rectified in Idaho; however, we understand that payment processing systems are unable to remove the tax prior to processing the transaction. In addition, U.S. Senator Richard Durbin (D–IL) is working his Senate colleagues to gain support for adding interchange fee restrictions to credit cards, as they have done with debit cards in the past. Interchange has become a hot topic that we expect to stick around for the foreseeable future. The NWCUA Advocacy Team has been working closely with CUNA, the Electronic Payments Coalition, and the Idaho Bankers Association to showcase the challenges and negative impacts of the aforementioned proposals. An alternative proposal to the sales tax exemption concept would provide vendors and merchants a rebate for their sales tax expenses, in lieu of the exemption, which is a concept being used in 30-plus other states across the country.

**Digital assets, digital currency, and an Idaho financial technology sandbox** – modeling language after the states of Wyoming, Utah, and Arizona, Representative Dustin Manwaring (R - Pocatello - 29) has introduced legislation to establish a regulatory structure to recognize the use of digital assets, and the block chain technology that it utilizes to track and protect assets, among other financial information. Moreover, there is a desire to establish custodial powers for digital currencies within Idaho state chartered financial institutions. In approaching this issue and this conversation, it makes sense for Idaho’s financial institutions to take the lead, along with Department of Finance, and supportive partners to move the effort forward, review potential regulatory structures and the possible impacts of establishing such constructs within the state. In that regard, a work group of Idaho legislators, representatives from DoF, IBA and NWCUA, along with several technology providers and academic leaders has been established for this summer. We will continue to present these matters in our upcoming advocacy meetings and discussions with Idaho legislators, while keeping our members closely informed of the changing landscape. (HB 327 / HB 328 current draft proposals)

**Attack on mortgage deed instruments** – Idaho financial institutions worked closely together to combat challenges to mortgage deeds and maturity dates on mortgage deeds during this year’s session. We will continue to closely monitor the issue going forward. Several pieces of legislation were introduced with the aim of fixing perceived issues with collection and foreclosure actions that stemmed from the Great Recession, with the target of the proposed changes being the mortgage statute in Idaho code. Working directly with Idaho Department of Finance, we have re-directed and quashed attempts to restructure the mortgage code; however, we expect to see several of these proposals resurface in the 2022 Legislative Session.

**Shifting Dimensions of the Auto Industry** – The Idaho Legislature strongly considered legislation that would have limited the ability of auto manufacturers to sell directly to Idahoans outside of the traditional dealer network (HB 296). There are several automobile manufacturers and resale companies that are working to sell directly to Idaho consumers and deliver the vehicle upon sale, without having a physical presence in the state. Some of these companies include Tesla, Lucid, Carvana, Shift, and Vroom. Recently, a new company called Rivian announced the launch of its two new electric vehicle platforms that will be available in late 2021 or early 2022. Rivian, partially owned by Ford Motor Company, has announced the goal of both companies to sell standard Ford products directly to consumers via the Rivian sales structure, and outside of the traditional dealer network. Several Idaho legislators expressed concerns regarding the importance of the auto dealer network and the rural communities that they serve. Interestingly, since the beginning of this year’s legislative session, Tesla, which is known for its direct-to-consumer sales and delivery, has opened a sales and service center in South Boise. The importance of the dealer network, indirect lending relationships and our CUSO support for vehicle lending will ensure our close monitoring of this issue.

## 2022 ELECTIONS ALREADY FRONT AND CENTER

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The current political landscape, which is ever-changing, will have real and lasting impacts for the remainder of 2021, the 2022 election season, and beyond. The next 18-months is shaping up to be a political season for the ages, and the Idaho Credit Union Advocacy Army will need to be prepared for a new level of issue management and personal outreach.

In late May, as previously mentioned, Lt. Governor Janice McGeachin announced her intent to challenge Governor Little in the 2022 primary election. Shortly following McGeachin’s announcement, House Speaker Scott Bedke announced his plan to run for the Lt. Governor's seat that would be vacated by McGeachin. Bedke joins two other Republican leaders in the race to be the next Idaho Lt. Governor.

We expect to see the tension within the Republican party continue to heighten through the next legislative session, legislative redistricting, and up to and including the 2022 general election on Nov. 8, 2022. Below is the current makeup of the election landscape for recognizable leaders that have announced their intention to seek a new position or fill a vacated seat for a leaving or retiring leader:

**Governor**

- Governor Brad Little (incumbent)
- Lt. Governor Janice McGeachin
- Nine other candidates have also filed to run for Governor, including anti-government activist Ammon Bundy.

**Lt. Governor**

- House Speaker Scott Bedke (R - Oakley - 27)
- State Rep. Priscilla Giddings (R - White Bird - 7)
- Former Rep. Luke Malek (R - Coeur d’Alene - 4)

**Secretary of State**

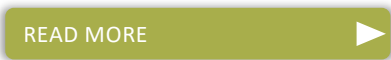
- State Sen. Mary Souza (R - Coeur d’Alene - 4)
- Ada County Clerk Phil McGrane (R)
- Chief of Staff to Secretary of State, Chad Houck (R)

**Current Appointees to the 2022 Redistricting Committee:**

Leader Appointing:	Appointee:
Senate Pro Tem Chuck Winder (R - Boise - 20)	Former US Attorney & Idaho State Sen. Bart Davis
House Speaker Scott Bedke (R - Oakley - 27)	TBD
Republican Party Chair Tom Luna	Former Idaho State Rep. Eric Redman
Senate Minority Leader Michelle Stennett (D -Ketchum - 26)	TBD
House Minority Leader Ilana Rubel (D – Boise - 18)	TBD
Democratic Party Chair Fred Cornforth	TBD

**LOOKING FORWARD**

*The NWCUA Compliance Team has prepared a detailed analysis of the bills relevant to credit unions that passed in the 2021 Idaho legislative session. The analysis is linked here.*



Please be sure to review this Idaho-specific Legislative Compliance Bulletin to determine how new laws may impact your operations.

As we move from summer into fall, the NWCUA Advocacy Team is actively working with the Idaho Department of Finance, legislative leaders, and Governor Little's office to establish NWCUA advocacy priorities via our Idaho State Issues Work Group (I-SIWG). The I-SIWG has completed the majority of its work and expects to have a full set of policy recommendations and draft legislation to give to the Idaho Government Affairs Committee (GAC), by the beginning of August. The Idaho GAC will finalize a set of recommendations to present to the full NWCUA Board for approval.

## SPECIAL SHOUT OUT

The NWCUA team would like to provide a special thank you to the members of the 2021 Idaho Governmental Affairs Committee for their tireless efforts to continue envisioning the modernization and possibilities for updating the Idaho Credit Union Act. In addition, we express our appreciation to the 2021 Idaho State Issues Work Group for the exceptional level of commitment and diligent work that has gone into developing the Idaho advocacy recommendations for the next two to three years. The collective work of both our GACs and our I-SIWGs, over the past few years, has set the stage to significantly improve the Idaho credit union charter. We still have some significant hills to climb as we strive to modernize the Idaho Credit Union Act, but with the vision and collective efforts of our leaders, we are well on our way. We look forward to working shoulder-to-shoulder with Idaho credit union leaders to outline and explain the updates that are necessary to our elected officials, as well as moving those updates through the Idaho Legislature. Moreover, we look forward to partnering with credit union leaders in identifying and supporting sound and thoughtful legislators and candidates who will work to support the Idaho credit union industry now and into the future.

***If you have questions about the 2021 Legislative Session or are interested in being a part of future Idaho Advocacy, State Issues Work Groups, and/or Idaho Government Affairs Committee, please contact Ryan Fitzgerald, Vice President, Legislative Affairs for Idaho at [rfitzgerald@nwcua.org](mailto:rfitzgerald@nwcua.org).***



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