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## Long list of issues awaits upcoming legislative session

By BETSY Z. RUSSELL [brussell@idahopress.com](mailto:brussell@idahopress.com) Jan 6, 2019



From left, Idaho House Minority Leader Mat Erpelding, D-Boise; House Speaker Scott Bedke, R-Oakley; and Senate President Pro-Tem Brent Rexburg, speak on a panel at the AP Legislative Preview in the Idaho state Capitol on Thursday.

Brian Myrick / Idaho Press

BOISE — With a new governor at the helm, Idaho's legislative session sets sail Monday into challenging seas.

There are the looming shoals of big prison problems, from an overflow of inmates to questions of sentencing reform; and the clashing currents over how to divide half the state budget among Idaho's schools through a new funding formula. State tax revenues aren't flowing in as expected, even as there's a push to lift the sales tax off groceries. And lawmakers are steering a voter-charted course toward a long-debated move to plug the state's health coverage gap by expanding Medicaid.

"A lot of the crew is new," noted Jasper LiCalzi, a College of Idaho political scientist, from new state agency heads to new chairs of key legislative committees. "New captain, new crew," he said. "I think this is as interesting of a session as you could get ... with so many changing parts and so many big issues that they have to deal with."

Hundreds of changes in state laws will be proposed, on everything from campaign finances to fireworks. With new hands on deck in nearly a quarter of the legislative posts, lawmakers and new Gov. Brad Little will face major tests of leadership and political will. Here's a look at some of the big issues ahead:

**MEDICAID EXPANSION.** After six straight years of inaction by the Legislature, Idaho voters stepped in this fall and passed an initiative to expand Idaho's Medicaid program to cover an estimated 60,000 Idahoans who now fall into a coverage gap. It's up to lawmakers to implement the voter-passed law, including appropriating funding for the state's 10 percent share of the cost. First, however, the Idaho Supreme Court will hear arguments Jan. 29 on a challenge from the Idaho Freedom Foundation to the new law. Under the voter initiative, the state has until Feb. 18 to submit its plan for Medicaid expansion to the federal government. The Idaho Department of Health & Welfare anticipates that if all goes smoothly, health coverage for Idaho's gap population would start Jan. 1, 2020.



Acting Gov. Brad Little, right, signs the official proclamation on Tuesday, Nov. 20, 2018, that makes Medicaid expansion the law of Idaho, after voters strongly approved it through a Nov. 6 ballot initiative; Idaho Secretary of State Lawrence Denney, left, attests to Little's signature.

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When Little, then acting governor, signed the proclamation that officially declared the initiative the law of the state, he said, "I've said I'm going to do everything I can to honor the will of the people." He noted that lawmakers still will scrutinize it. "I think we'll get there," he said. "It's not a big dollar issue, relative to a lot of the other decision units the Legislature addresses. There'll be a number of philosophical discussions."

**TAXES AND REVENUES.** Lawmakers are required by the state constitution to pass a balanced budget each year, and this year, tax collections have lagged far behind forecasts, almost entirely due to lower-than-expected withholding collections for the state's individual income tax. That money may all come in April, when Idahoans file their state income tax returns — but lawmakers likely will be done with their session by then. Many will be leery of planning to spend money that may or may not show up, so that could put additional restraints on Idaho's spending. One big-ticket item that's floating

ahead is the removal of the state's 6 percent sales tax on groceries — something Little supports, and lawmakers already passed in 2017, only to see former Gov. Butch Otter veto the bill out of concern over revenues.

That bill had a price tag of \$79 million a year to the state treasury, including \$26.2 million to adjust revenue-sharing payments to local governments to ensure they didn't lose funding because of the change.

The potential loss of revenue from a grocery tax repeal concerns Nampa Mayor Debbie Kling. Nampa gets about \$1 million from the state through the grocery tax, Kling said. If legislators could ensure that payments to local governments would not be impacted, then Kling said she would support a repeal, but she is not sure how that is possible with Medicaid expansion on the horizon as well.

**EDUCATION FUNDING.** Changing the state's complex public school funding formula is a gargantuan task. Lawmakers have been at work on it for the past three years, and this year the proposal comes up for a decision. The current formula is out of date; it predates everything from charter schools to online courses. Any alteration in the formula creates winners and losers among Idaho's 100-plus school districts and charter schools. The only way to avoid short-changing some is to raise the total amount allocated, but that could run into the tens of millions. At the same time, new Gov. Little campaigned on some specific proposals for education, including not only funding the upcoming final year of a five-year teacher "career ladder" pay plan, but also moving to raise Idaho's starting teacher pay to \$40,000 a year and providing new resources to Idaho school districts to address early childhood education needs.



House Speaker Scott Bedke, second from right, speaks during a meeting Wednesday, July 18, 2018, of the Public School Funding Formula Committee at the Idaho Capitol.

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The school funding issue — the largest single slice of the state budget — will be front and center for both the Legislature’s joint budget committee, which has two new House and Senate co-chairs, Rep. Rick Youngblood, R-Nampa, and Sen. Steve Bair, R-Blackfoot; and for the education committees in both houses. While Senate Education Chairman Dean Mortimer, R-Idaho Falls, continues to chair the Senate panel, the House Education Committee has a new chairman in Rep. Lance Clow, R-Twin Falls.

**PRISONS AND JUSTICE REFORMS.** Idaho’s state Board of Correction raised eyebrows across the state when it voted in June to back a \$500 million-plus prison expansion proposal, which includes a big new state prison. Lawmakers aren’t enthused about the idea and have been working hard on proposals to reform Idaho’s criminal justice system instead, from re-examining some of the state’s mandatory minimum sentence laws to addressing recidivism through probation reforms and treatment. But even if those changes were made, Idaho already has hundreds of its inmates housed temporarily in two private prisons in Texas for lack of cell space here, a costly and problematic lifeboat approach.

“Idaho has some issues that need to be addressed in the criminal justice realm,” said Rep. Tom Dayley, R-Boise, the new House judiciary chairman. The state has the lowest crime rates in the region but the highest incarceration rate. For the past four years, all three branches of Idaho’s state government have worked on a justice reinvestment initiative, aimed at reserving cell space for the most dangerous criminals, while beefing up supervision of lesser offenders in the community.

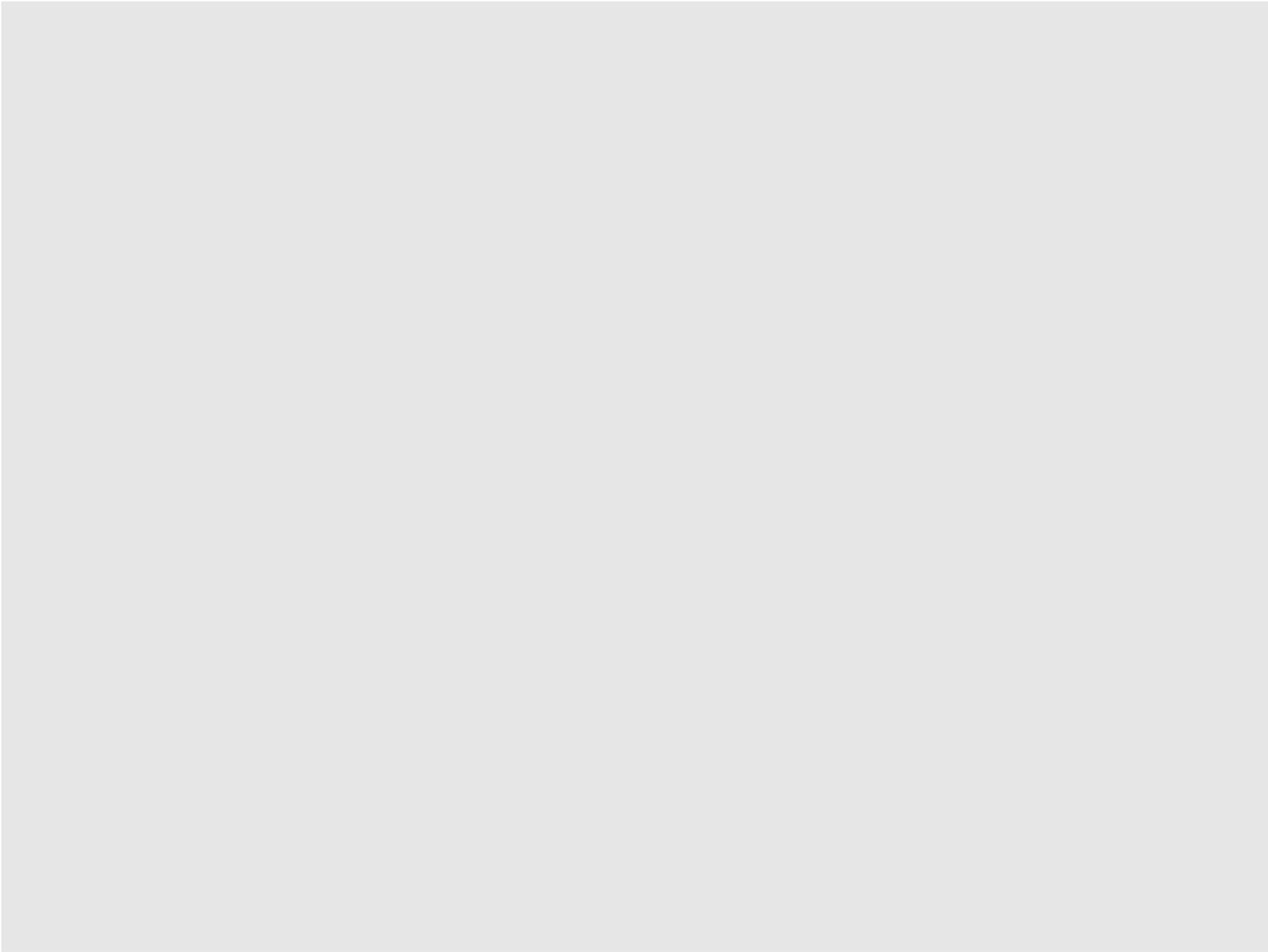
“The intent is certainly a good one,” said Sen. Todd Lakey, R-Nampa, the new Senate judiciary chairman, “to try and make sure that we are incarcerating the right people, and that we also provide opportunities for those who are involved in the system to become productive citizens after their release. But we also have to be keenly aware of public safety.”

Beyond the storm clouds of those four top issues, dozens of other turbulent matters are roiling the seas ahead, and lawmakers will be faced with them as they navigate their session from January into the spring. Among them:

**CAMPAIGN FINANCE.** After two years of work, a joint panel of senators and representatives will call on the full Legislature to endorse a slate of campaign finance reforms, from requiring more frequent reporting, to expanding disclosure requirements to all levels of government, to changing rules for independent expenditures.

Under the proposed reforms, all reports would go into a single, searchable database to be operated by the Idaho Secretary of State’s Office and made easily available to the public. Sen. Patti Anne Lodge, R-Huston, who co-chaired the joint interim committee, said, “I think one of the most important things that we do is allow the citizens to know where the money is coming from and where they’re spending it.”

**FAITH HEALING.**



Local Idaho leaders joined the March to Protect Idaho Kids in Boise on Monday, Feb. 19. Participants carried child-sized coffins through downtown Boise to the Idaho Statehouse, asking state lawmakers to repeal Idaho's faith healing exemption that allows religious groups to deny medical treatment to children.

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Idaho is one of few states in the country with a law shielding faith-healing parents from civil or criminal prosecution when their children die or sustain disabling injuries without medical care. Controversy over children who were allegedly endangered or neglected because their families practice faith healing continues to surface in Canyon County in particular, where congregations of the Followers of Christ practice faith healing. Members of the small and private Christian sect usually won't seek medical attention when they're injured or sick.

The issue continues to resurface in the Legislature and the media — an A&E documentary released in October followed Idaho's Senate Bill 1182, which failed, 11-24, in the 2017 legislative session. The bill would have altered but not removed Idaho's faith-healing exemption from civil liability for child

neglect. A bill to remove the exemption drafted by state Rep. John Gannon, D-Boise, and former Idaho Supreme Court Justice Jim Jones failed to even make it out of committee during the 2018 legislative session. Lawmakers concerned about removing the exemptions continue to cite a possible infringement on religious freedom and parental rights.

This year, child advocates have early plans to push for a weakening of the exemption rather than a repeal. Bruce Wingate of the nonprofit Protect Idaho Kids said their group seeks to amend the current religious exemption, so that it doesn't apply if the child is at risk of serious injury or death.

"We're not seeking to criminalize the Followers of Christ," Wingate told the Idaho Press. "We're trying to create a deterrent."

**LOCAL-OPTION TAXES.** Idaho does not allow for a local-option sales tax unless a city has high tourism traffic, such as McCall.

A local-option sales tax is a voter-approved tax in a municipality, adding a small tax on the sale of a specific item in order to fund one-time projects or public transportation.

Some local leaders have pushed for the local option, as Idaho continues to grow. Boise Mayor Dave Bieter called for it in his State of the City address, and regional planning organization Compass added local-option sales tax to its list of priorities for the upcoming session. Compass has previously aired the idea of allowing a local-option sales tax, when it brought in a representative from Utah Transit Authority to discuss a regional train in the Treasure Valley. UTA Interim Director Steve Meyer said the agency funded its Salt Lake City transit system with a local-option sales tax.

**CANNABIS, CBD OIL AND HEMP.** Idaho is one of only a few remaining states in which industrial hemp is illegal. The state also is surrounded by states that have legalized some form of cannabis, from non-psychoactive CBD oil to medical and recreational marijuana.

Idaho lawmakers have staunchly opposed loosening the state's strict marijuana prohibitions, including a resolution passed in 2012 saying the state would never take that step. But with this year's national farm bill legalizing industrial hemp nationwide — if states go along — some lawmakers are calling for change.

**FIREWORKS.** Fireworks will likely continue to spark controversy in Idaho in the new year as legislators and law enforcement continue to grapple with a state law making kinds of fireworks illegal to ignite within the state, even as they continue to be sold here. Right now, fireworks that leave the ground or shoot sparks more than 20 feet in the air or 15 feet in diameter are prohibited under a 1997 Idaho law, often referred to as the "Fireworks Act." Even after the passage of that law, vendors kept selling aerial fireworks — they just required customers to sign paperwork promising not to ignite them within state limits.

The Idaho Attorney General's Office waded into this legal gray area 20 years later in June 2017 when a lawmaker asked for clarification. Deputy Attorney General Paul Panther issued an opinion stating even the sale of aerial fireworks is illegal under Idaho law. The office released a follow-up statement saying this interpretation of the law was simply an opinion, not legally binding in and of itself.

Law enforcement agencies appeared to enforce the fireworks law the way they had in the past, even in the wake of that opinion. Boise Fire Chief Dennis Doan took a more bellicose approach, however, and in June stated if fireworks start fires within the Boise city limits, the Boise Fire Department would seek restitution from the vendors of those fireworks — even if the sale didn't take place within city limits. He made the statement at the foot of Table Rock, where in June 2016 a 19-year-old from Middleton knocked over a Roman candle and ignited the Table Rock Fire, which blackened 2,500 acres, a home, and an outbuilding.

**ADD THE WORDS.** Despite years of debate, the Idaho Human Rights Act still offers no protection for those who are discriminated against on the basis of sexual orientation or gender identity. Though the issue has been quieter in recent years — after some years that saw multiple arrests at high-profile protests over the issue during the Idaho legislative session — it is expected to come up again this year.

During the decade-plus that the Idaho Legislature has declined to address the issue, numerous Idaho cities have passed local anti-discrimination ordinances of their own.

**ROAD FUNDING AND TRUCK FEES.** As Idaho continues to struggle with a huge backlog in road and bridge maintenance, a legislative interim committee that was supposed to re-examine fees on heavy trucks never met over the summer and therefore isn't recommending anything — though a 2015 state law required a new weight-distance tax to be imposed on heavy trucks on Jan. 1, 2019.

"I think we need to address the issue," said Senate Majority Leader Chuck Winder, R-Boise. "There are probably some differences between the House and the Senate approach on it. I think the Senate would like to pursue it. Hopefully we can get the House to share in that and move forward."

A 2010 state-commissioned highway cost allocation study showed that truckers are underpaying for their vehicles' impacts on Idaho roads, while motorists are overpaying.

### **'ALL HANDS ON DECK'**

With these issues and many more, interests across the state, from local governments to business groups to taxpayers to faith communities, are gearing up to make their case to lawmakers. Legislators themselves are floating ideas and casting wide nets for public input.

Many of the big issues now facing lawmakers have been bypassed for years, LiCalzi with C of I noted, especially since the financial crisis that stunned the state in 2007.

"We've just been cruising along for a while," he said. Now, he said, it'll take all hands on deck for the state to steer through them. "I think it's going to be slow going at first."

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*Betsy Z. Russell is the Boise bureau chief and state capitol reporter for the Idaho Press and Adams Publishing Group. Follow her on Twitter at @BetsyZRussell.*

## COMPASS PRIORITIES

In addition to a local-option sales tax, the regional planning agency Compass also listed other funding-related issues in its list of legislative priorities, such as diversifying options for state and local revenue to fund transportation systems, a voter-approved property tax option for Idaho's regional public transportation authorities, and extension of the "surplus eliminator" of revenue while also widening to 60-40 split for state and local transportation needs.

Compass' other priorities were safe routes to school programs and high-occupancy vehicle lanes.

## BOISE METRO CHAMBER

Boise's business community has several hopes headed into the session, some directly related to business and others not.

The business advocacy and marketing group is hoping for legislation that markets Idaho as a destination for data centers due to the state's low-cost electricity and lack of natural disasters, as well as the preservation of current urban renewal policies.

The group also supports a local-option tax. It also has doubled down on its support for Medicaid expansion by requesting that the Legislature implement it following the majority vote to pass it in November. Also on the list is liquor license reform and improving funding for career and technical education programs.

## CALDWELL CHAMBER

The Caldwell Chamber of Commerce has several key issues on its radar for the upcoming session, from transportation to continued funding for the soon-to-open crisis center, a mental health resource for adults who might otherwise end up in a jail or emergency room.

A top priority for Caldwell, the chamber wrote in its list of legislative priorities, is the expansion of Interstate 84 between Nampa and Caldwell, emphasizing the importance of public safety. The chamber encourages the Legislature to continue to prioritize funding for widening the interstate. Over \$190 million in state and grant funding has been put toward the effort in the past two years, which will help fund the nearly three-mile widening on the interstate in Canyon County.

The chamber also supports a local-option tax, giving more local control to cities and counties in Idaho.

“If local voters want to impose a sales tax on themselves then they should have that right,” the chamber wrote.

The chamber supports the funding and implementation of Medicaid expansion and highlighted the direct economic and workforce impact the cost of health insurance and health care has on Caldwell.

The chamber also supports legislation that would allow school districts to establish and collect development impact fees to alleviate the strain of population growth on school districts.

“Development Impact Fees allow growth to pay for itself and lessen the burden on existing property tax payers,” the Chamber wrote.

The chamber also zeroed in on its support to bring more physicians to Idaho, and more local and state support for youth behavioral programs.

The Nampa Chamber of Commerce did not provide the Idaho Press with a list of their legislative priorities by the print deadline.

## MERIDIAN CHAMBER

The Meridian Chamber of Commerce expressed concern that further delays in transportation infrastructure will cause problems for the community's economic vitality and for future generations. It supports:

- Capacity improvements to Highway 20-26, or Chinden Boulevard, west of South Eagle Road.
- Construction of Linder overpass on Interstate 84 to provide additional arterial north and south access to Meridian.
- Extension of State Highway 16, or Central Valley Expressway.
- Use of a multifaceted approach for finding funding sources for transportation costs, including registration fees, fuel taxes and other user fees.
- Investigation into other funding for alternate transportation, without negatively impacting Meridian's general fund.

The chamber favors legislation that creates jobs and reduces regulation on businesses, including:

- The Tax Reimbursement Incentive.
- Local-based incentives.
- Local-option tax authority and mechanisms for funding infrastructure associated with new growth, including impact fees.
- Legislation that improves access to liquor licenses for restaurants while maintaining the legacy liquor licenses.

The Chamber supports a tax structure that meets the needs of the government and encourages investment in the economy, including:

- Review and potential elimination of sales tax exemptions.
- Reduction of state corporate income tax rates.
- Modifications to state sales tax distribution formula to local government using a population-based model.

In the education realm, the Chamber supports:

- The recommendations of Governor's Education Task Force to implement fifth year of the career ladder funding formula.
- A mechanism for new growth to contribute to building needs in Idaho schools.
- The expansion of College of Western Idaho's Canyon County and online campuses.

The Chamber supports limited government involvement in the health care system and a reduction in employee mandates, including:

- Proposition 2 language that expands Medicaid to eliminate any gap population and makes services available to residents.
- Efforts to fund substance-abuse treatment programs.

The chamber supports measures that enhance the amenities of the community, including:

- Reducing the threshold to pass a bond from 66.67 percent down to 60 percent.
- Protect the community's use of urban renewal and auditorium districts.
- Limit annexation by one city into another city's areas of impact without prior consent.
- Expand electrical inspection certifications in Idaho.

## CITY OF BOISE

The city of Boise has a variety of issues on its wish list for the legislative session, mostly related to a desire to maintain its independence. Unlike the rest of Idaho that is largely rural, Boise is an urban, more liberal city with goals that often clash with the Republican-dominated Legislature.

Mayor Dave Bieter's desire for local-option tax authority and general opposition to any legislation stripping cities' ability for control are on the list. Hopes for local-option taxing authority were a major highlight of Bieter's state of the city address in September, which he has often touted as a way for the city to pay for a bigger public transit system.

Boise also wants to ensure its budget will not take a hit due to any changes made at the state level. The city said it will not support any revenue sharing sales tax redistribution if Boise loses money, and if the state's grocery tax is repealed Boise also wants to ensure that the loss would be offset.

Health issues are also on the city's radar, including the implementation of Medicaid expansion and any legislation with funding for opioid addiction or crisis center funding.

## ADA COUNTY

Ada County Commissioner-elect Diana Lachiondo said her biggest priority is making sure Medicaid expansion isn't tampered with.

"I'm really interested in making sure that it goes through as planned by Idaho voters," Lachiondo said.

Her biggest concern is adding a work requirement. Lachiondo said she understands why some people would want that, but the most expensive indigent cases faced by the county and eventually the state involve mental health issues that can hinder employment.

"It's a very small number, if you look at the studies, most of the people that are in the gap do work," she said.

Lachiondo said adding a work requirement would inject unnecessary bureaucracy into the process and require more staff to verify working status, which could eventually end up costing more money.

The other incoming commissioner, Kendra Kenyon, did not respond to the Idaho Press' request for comment on legislative priorities.

The current commission, including Rick Visser and outgoing commissioners Dave Case and Jim Tibbs, listed correcting jail overcrowding as one of its legislative priorities this session.

"Ada County continues to subsidize the state by housing some of their prisoners in the county jail. The main jail facility has room for 1,116 inmates. To operate safely and efficiently, the Sheriff's Office needs to be at 85 percent capacity or less (949 inmates)," Ada County spokeswoman Kate McGwire wrote in an email on behalf of the commissioners.

McGwire noted that the jail has been overcrowded since 2017.

The county commissioners will also be watching for legislation pertaining to the sheriff's department's duty to provide ongoing medical care.

McGwire wrote that the Idaho Supreme Court ruled previously that sheriff's offices, in some cases, are responsible for ongoing medical costs after an inmate is released from custody.

Another legislative priority for the county is magistrate court funding. The Legislature passed a bill in the 2018 session that will fund magistrate courts around the state with the liquor tax. Ada County fought with Garden City and Meridian over funding for the court, and recently chided Boise for pulling out of the agreement, too. Under the agreement, Boise would pay 20 percent less for magistrate court funding per year until the court is entirely funded by the liquor tax.

The commissioners' other two interests are electronic publication of legal notices and misdemeanor probation supervision funding.

## CANYON COUNTY

Canyon County Commissioner Tom Dale said the implementation of a local option sales tax for jail construction was among his top priorities as chairman of the board of county commissioners. Canyon County is planning their fourth attempt in a decade to pass a bond for a new jail. Despite months of lead-up, county officials still aren't confident in taxpayers' willingness to approve a \$170 to \$190 million burden on their property taxes.

"As part of the Idaho Association of Counties and as the county commissioner, I believe that is the chief need, legislatively, for counties across the state," Dale said. "We have a need that is very difficult to meet."

In his role on the board of Southwest District Health, Dale said he'll also be looking to the legislature to fund the Medicaid expansion and relieve some of the burden on Canyon County taxpayers.

"We need other options besides property taxes to pay for these needed services and needed facilities," Dale said. "We need other tools, other options."

"New captain, new crew. I think this is as interesting of a session as you could get ... with so many changing parts and so many big issues that they have to deal with."

-Jasper LiCalzi, political scientist

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