

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 426

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO FISH AND GAME; AMENDING SECTION 36-408, IDAHO CODE, TO REVISE  
2 PROVISIONS REGARDING THE FISH AND GAME COMMISSION'S AUTHORITY ASSOCI-  
3 ATED WITH TAGS; AMENDING SECTION 36-2102, IDAHO CODE, TO REMOVE DEFI-  
4 NITIONS AND TO DEFINE TERMS; AMENDING SECTION 36-2107, IDAHO CODE, TO  
5 REVISE POWERS AND DUTIES OF THE BOARD; AMENDING CHAPTER 21, TITLE 36,  
6 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 36-2120, IDAHO CODE, TO PRO-  
7 VIDE FOR THE DESIGNATION OF ALLOCATED TAGS; AND DECLARING AN EMERGENCY.  
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 36-408, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 36-408. COMMISSION'S AUTHORITY -- TAGS -- PERMITS -- NONRESIDENTS  
13 LIMITED -- OUTFITTERS SET-ASIDE. (1) Tags and Permits -- Method of Use. The  
14 commission is hereby authorized to prescribe the number and kind of wildlife  
15 that may be taken under authority of the several types of tags and permits  
16 provided for in this title and the manner in which said tags and permits shall  
17 be used and validated.

18 (2) Limit -- Licenses, Tags or Permits -- Controlled Hunts. The commis-  
19 sion is hereby authorized to establish a limit annually as to the number of  
20 each kind and class of licenses, tags, or permits to be sold or issued and is  
21 further authorized to limit the number or prohibit entirely the participa-  
22 tion by nonresidents in controlled hunts.

23 (3) Outfitted Hunter Tags Set-Aside. When the commission establishes a  
24 limit as to the number of nonresident deer tags and nonresident elk tags, it  
25 shall set aside, when setting big game seasons, in a statewide pool, a maxi-  
26 mum of twenty-five percent (25%) of the nonresident deer tag and nonresident  
27 elk tag limit. These tags may be allocated to the outfitted hunters in capped  
28 ~~zones~~ hunts and controlled hunts and set aside for outfitted hunter use in  
29 general hunts.

30 Such outfitted allocated set-aside tags shall be separate from the tag  
31 numbers set for residents and nonresidents in each capped or controlled ~~zone~~  
32 hunt, unit, or game management area. The set-aside tags shall be sold pur-  
33 suant to commission rule, only to persons that have entered into a signed  
34 agreement for that year to utilize the services of an outfitter licensed pur-  
35 suant to chapter 21, title 36, Idaho Code.

36 In order for a person to purchase any set-aside nonresident deer tag or  
37 nonresident elk tag, that person's outfitter must submit an application with  
38 the proper fees as required by the director. If any nonresident deer tags  
39 or nonresident elk tags set aside for use in general hunts pursuant to this  
40 subsection are unsold by July 15 of the year in which they were set aside,  
41 they may be sold by the department to the general public pursuant to commis-  
42 sion rule. If any nonresident deer tags or nonresident elk tags set aside as

1 general capped allocated tags pursuant to this subsection are unsold by July  
 2 31 of the year in which they were set aside, they may be sold by the department  
 3 to the general public pursuant to commission rule.

4 The commission may promulgate all necessary rules to implement the pro-  
 5 visions of this subsection.

6 (4) Deer and Elk Tag Allocation. When setting big game seasons, if the  
 7 commission limits the number of deer or elk tags available for use in any game  
 8 management area, unit, or zone, the commission may allocate by rule, where  
 9 there are outfitted operations, a number of deer and elk tags from the out-  
 10 fitted hunter set-aside pool of tags for use by hunters that have entered  
 11 into a signed agreement for that year to utilize the services of an outfit-  
 12 ter licensed pursuant to chapter 21, title 36, Idaho Code.

13 In addition to rules promulgated by the commission regarding alloca-  
 14 tion, or pursuant to this section, in capped zones hunts the commission may  
 15 allocate the number of outfitted hunter elk and deer tags based on the high-  
 16 est number within each of the last two (2) years of all elk or deer tags using  
 17 the services of an outfitter in each capped zone hunt. Any additional tags  
 18 above the original outfitted hunter tag quota may come from the nonresident  
 19 outfitted hunter set-aside pool or the nonresident quota in the capped zone  
 20 hunt, not to exceed fifty percent (50%) of the nonresident quota for each  
 21 capped zone hunt. In capped zones hunts, when tag numbers change for all  
 22 users, they will apply proportionally to all user groups.

23 In controlled hunts, the commission may allocate the number of outfit-  
 24 ted hunter elk or deer tags based on a number compiled from each outfitter's  
 25 highest year within the last two (2) years of all elk or deer tags using  
 26 the services of an outfitter for each controlled hunt. Any additional tags  
 27 above the original outfitted hunter tag quota may come from the nonresident  
 28 outfitted hunter set-aside pool or the nonresident quota in the controlled  
 29 hunt, not to exceed fifty percent (50%) of the nonresident quota for each  
 30 controlled hunt.

31 Outfitted hunter tag use history will be provided through records from  
 32 the sale of outfitted hunter tags compiled by the Idaho department of fish  
 33 and game and verified use other than allocated tags recorded with the depart-  
 34 ment by December 20 by outfitters. The department shall distribute the allo-  
 35 cated outfitted tags through its point-of-sale machines.

36 Beginning ~~January~~ December 1, 2021, all outfitted deer and elk tag use  
 37 shall be verified in order to qualify for allocated outfitted hunter tag use  
 38 history. Verification consists of the purchase of allocated tags from the  
 39 Idaho department of fish and game or the use of an outfitter-provided agree-  
 40 ment, including the tag number that is recorded with the department.

41 All big game tags used in allocated outfitted hunts must be recorded by  
 42 outfitters with the department ~~prior to~~ by December 20 each year. An admin-  
 43 istrative fee of five dollars (\$5.00) shall be assessed for each allocated  
 44 outfitted big game tag sold or exchanged at a point-of-sale machine. An ad-  
 45 ministrative fee of twenty dollars (\$20.00) shall be assessed for each big  
 46 game tag submitted for verification as being outfitted.

47 The allocated tags shall be designated by the Idaho outfitters and  
 48 guides licensing board to those authorized outfitting operations licensed  
 49 for elk and deer hunting for the use by the outfitted hunter, pursuant to  
 50 section 36-2107(~~h~~), Idaho Code.

1 Those tags not qualified for allocated tag use history include emer-  
2 gency depredation, landowner appreciation program hunts, or meat packing  
3 without an outfitted allocated deer or elk tag.

4 The commission may promulgate all necessary rules to implement the pro-  
5 visions of this subsection.

6 (5) Special Game Tags. The commission is hereby authorized to issue two  
7 (2) special bighorn sheep tags per year.

8 (a) Auction bighorn sheep tag. One (1) special bighorn sheep tag shall  
9 be auctioned off by an incorporated nonprofit organization dedicated  
10 to wildlife conservation selected by the commission. The tag shall be  
11 issued by the department of fish and game to the highest eligible bid-  
12 der. No more than five percent (5%) of all proceeds for the tag may be  
13 retained by the organization. The tag to be issued pursuant to this  
14 subsection shall be taken from the nonresident bighorn sheep tag quota.  
15 The net proceeds shall be forwarded to the director for deposit in the  
16 fish and game expendable trust account and shall be used for bighorn  
17 sheep research and management purposes. Moneys raised pursuant to this  
18 subsection may not be used to transplant additional bighorn sheep into  
19 that portion of southwest Idaho south of the Snake river and west of U.S.  
20 highway no. 93, nor for litigation or environmental impact statements  
21 involving bighorn sheep. No transplants of bighorn sheep accomplished  
22 with moneys raised pursuant to this subsection shall occur in any area  
23 until hearings are conducted in the area. Provided however, that none  
24 of the proceeds generated from the auction of bighorn sheep tags pur-  
25 suant to this paragraph be used to purchase or acquire private property  
26 or federally managed grazing permits, nor shall any proceeds generated  
27 be used for matching funds for the purchase of private property or the  
28 retirement or the acquisition of federally managed grazing permits.

29 (b) Lottery bighorn sheep tag. The commission is also authorized to is-  
30 sue one (1) special bighorn sheep tag, which will be disposed of by lot-  
31 tery. The lottery permit can be marketed by the department of fish and  
32 game or a nonprofit organization dedicated to wildlife conservation se-  
33 lected by the commission. The tag will be issued by the department of  
34 fish and game to an eligible person drawn from the lottery provided in  
35 this subsection. No more than twenty-five percent (25%) of gross rev-  
36 enue can be retained for administrative costs by the organization. All  
37 net proceeds for the tag disposed of by lottery pursuant to this sub-  
38 section shall be remitted to the department and deposited in the fish  
39 and game expendable trust account. Moneys in the account from the lot-  
40 tery bighorn sheep tag shall be utilized by the department in solving  
41 problems between bighorn sheep and domestic sheep, solving problems be-  
42 tween wildlife and domestic animals or improving relationships between  
43 sportsmen and private landowners.

44 (6) Issuance of Free Permit or Tag to Minor Children with Life-Threat-  
45 ening Medical Conditions. Notwithstanding any other provision of law, the  
46 commission may issue free big game permits or tags to minor children who have  
47 life-threatening medical conditions that have been certified eligible by  
48 a qualified organization. The commission may prescribe by rule the manner  
49 and conditions of issuing and using the permits or tags authorized under this  
50 subsection. For purposes of this subsection, a "qualified organization"

1 means a nonprofit organization that is qualified under section 501(c)(3) of  
2 the Internal Revenue Code and that affords opportunities and experiences to  
3 minor children with life-threatening medical conditions.

4 (7) Issuance of Free Permit or Tag to Military Veterans with Disabil-  
5 ities. The commission may prescribe by rule the manner and conditions of  
6 using the permits or tags authorized under this subsection. Notwithstand-  
7 ing any other provision of law, the commission shall issue five (5) free big  
8 game permits or tags to disabled military veterans whose disability has been  
9 certified eligible by the Idaho division of veterans services. All veterans  
10 applying must be sponsored by a "qualified organization," which for purposes  
11 of this subsection means a governmental agency that assists veterans or a  
12 nonprofit organization that is qualified under section 501(c)(3), 501(c)(4)  
13 or 501(c)(19) of the Internal Revenue Code and that affords opportunities,  
14 experiences and assistance to disabled veterans. The Idaho division of vet-  
15 erans services shall screen all applicants to ensure only the most deserving  
16 disabled veterans shall be issued these permits or tags. A list of screened  
17 applicants shall be provided to the commission in priority order for is-  
18 suance. The commission shall issue one (1) permit or tag each to the top two  
19 (2) candidates for a sponsored hunt as designated by the Idaho division of  
20 veterans services and the three (3) remaining permits or tags to candidates  
21 sponsored by a qualified organization as described in this subsection.

22 (8) Special Wolf Tags. The commission is hereby authorized to issue up  
23 to ten (10) special auction or lottery tags for hunting wolves. Special wolf  
24 tags will be auctioned off or made available through lottery by incorporated  
25 nonprofit organizations dedicated to wildlife conservation and selected by  
26 the director. No more than five percent (5%) of all proceeds for each tag  
27 may be retained by the nonprofit organization for administrative costs in-  
28 volved. Each wolf tag shall be issued by the department of fish and game and  
29 awarded to the highest eligible bidder or winner of a lottery. Each tag will  
30 be good for the harvest of one (1) wolf pursuant to commission rule. The pro-  
31 ceeds from each tag will be sent to the director to be placed in the depart-  
32 ment general license fund.

33 (9) Special Big Game Auction Tags -- Governor's Wildlife Partnership  
34 Tags. The commission is hereby authorized to issue special big game auc-  
35 tion tags hereafter named and referred to as "Governor's wildlife partner-  
36 ship tags" for hunting designated species on dates and in areas designated by  
37 the commission. To enhance and sustain the value of Idaho's wildlife, up to  
38 three (3) tags per species per year may be issued for deer, elk and pronghorn  
39 antelope, one (1) tag per year may be issued for moose, and one (1) tag per  
40 species per year may be issued for mountain goat and bighorn sheep. Each tag  
41 will be signed by the governor of Idaho prior to auction to the public and be  
42 available to either residents or nonresidents of Idaho. Governor's wildlife  
43 partnership tags issued for deer, elk, pronghorn antelope and moose pursuant  
44 to this subsection shall be taken from the nonresident controlled hunt pro-  
45 grams for these species adopted by the fish and game commission. Governor's  
46 wildlife partnership tags issued for mountain goat and bighorn sheep shall  
47 be taken from the nonresident mountain goat and bighorn sheep quota. Gover-  
48 nor's wildlife partnership tags shall be auctioned off by incorporated non-  
49 profit organizations dedicated to wildlife conservation and selected by the  
50 director. No more than five percent (5%) of all proceeds from each tag sale

1 may be retained by the nonprofit organization for administrative costs in-  
2 volved, including in the event a tag is redonated and reauctioned. Each tag  
3 shall be issued by the department of fish and game and awarded to the high-  
4 est eligible bidder. Each tag shall be good for the harvest of one (1) big  
5 game animal pursuant to commission rule consistent with the provisions of  
6 this subsection. The proceeds from each tag shall be sent to the director to  
7 be allocated up to thirty percent (30%) for sportsmen access programs, such  
8 as access yes, and the balance for wildlife habitat projects, wildlife man-  
9 agement projects to increase the quantity and quality of big game herds, and  
10 other research and management activities approved by the commission. Pro-  
11 vided however, that none of the proceeds generated from the auctions pur-  
12 suant to the provisions of this subsection shall be used to purchase or ac-  
13 quire private property or federally managed grazing permits, nor shall any  
14 proceeds generated be used for matching funds for the purchase of private  
15 property or the retirement or the acquisition of federally managed grazing  
16 permits. Moneys raised pursuant to this subsection may not be used to trans-  
17 plant additional bighorn sheep into that portion of southwest Idaho south of  
18 the Snake river and west of U.S. highway no. 93, nor for litigation or envi-  
19 ronmental impact statements involving bighorn sheep.

20 SECTION 2. That Section 36-2102, Idaho Code, be, and the same is hereby  
21 amended to read as follows:

22 36-2102. DEFINITIONS. (a) "Person" includes any individual, firm,  
23 partnership, corporation or other organization or any combination thereof.

24 (b) "Outfitter" includes any person who, while engaging in the acts  
25 enumerated herein: (1) advertises or otherwise holds himself out to the  
26 public for hire; (2) provides facilities and services for consideration;  
27 and (3) maintains, leases, or otherwise uses equipment or accommodations  
28 for compensation for the conduct of outdoor recreational activities lim-  
29 ited to the following: hunting animals or birds; float or power boating on  
30 Idaho rivers and streams; fishing on Idaho lakes, reservoirs, rivers and  
31 streams; and hazardous desert or mountain excursions. Any firm, partner-  
32 ship, corporation or other organization or combination thereof operating as  
33 an outfitter shall designate one (1) or more individuals as agents who shall,  
34 together with the licensed outfitter, be held responsible for the conduct of  
35 the licensed outfitter's operations and who shall meet all of the qualifica-  
36 tions of a licensed outfitter.

37 (c) "Guide" is any natural person who is employed by a licensed outfit-  
38 ter to furnish personal services for the conduct of outdoor recreational ac-  
39 tivities directly related to the conduct of activities for which the employ-  
40 ing outfitter is licensed. Any such person not employed by a licensed out-  
41 fitter who offers or provides facilities or services as specified in subsec-  
42 tion (b) of this section shall be deemed in violation of the provisions of  
43 this chapter, except: (1) any employee of the state of Idaho or the United  
44 States when acting in his official capacity, or (2) any natural person who is  
45 employed by a licensed outfitter solely for the following activities: car-  
46 ing for, grooming or saddling of livestock, cooking, woodcutting, and trans-  
47 porting people, equipment and personal property on public roads shall be ex-  
48 empt from the provisions of this chapter.

49 (d) "Board" means the Idaho outfitters and guides licensing board.

1 (e) ~~"Resident" means a person who has resided in the state of Idaho for a~~  
 2 ~~period of six (6) months next preceding the time of application for license.~~

3 ~~(f) "Nonresident" means any person not included in subsection (e) of~~  
 4 ~~this section.~~

5 ~~(g) "License year" means that period of time beginning on April 1 and~~  
 6 ~~expiring March 31 the following year.~~

7 ~~(h) "Individual" means any person other than a partnership, corpora-~~  
 8 ~~tion or any other organization or combination thereof.~~

9 (g) "Allocated tag" means a hunting tag that has been allocated by the  
 10 fish and game commission pursuant to section 36-408(4), Idaho Code.

11 (h) "Capped hunt" means a game management area, unit, or zone for which  
 12 the fish and game commission has limited or "capped" the number of deer or elk  
 13 tags available for use in a general season hunt.

14 (i) "Controlled hunt" means a hunt for a species that has a framework  
 15 determined by the fish and game commission and that has a limited number of  
 16 tags that are distributed by random drawing to hunters.

17 (j) "Outfitted hunter tag use history" means the number of tags used by  
 18 clients of an outfitter for the hunt or hunts with the most similar framework  
 19 to the hunt for which the allocated tag is being designated.

20 (k) "Remaining allocated tag" means an allocated tag in an existing  
 21 capped or controlled hunt that would have been designated to a particular  
 22 outfitting operation had the outfitting operation used all of its previously  
 23 designated allocated tags in the preceding big game season or seasons and  
 24 that will be designated pursuant to this chapter.

25 (l) "Base allocation" means the historic tag use of an outfitting oper-  
 26 ation over the preceding two (2) years in a given hunt as computed in section  
 27 36-2120(2), Idaho Code.

28 (m) "Pool" means a group of tags that have not been utilized or have been  
 29 surrendered by the outfitting operation to which they were originally desig-  
 30 nated and are made available to other operations in the same hunt.

31 (n) "Utilized" means that a tag has been purchased, exchanged, or con-  
 32 verted at the department of fish and game as a designated allocated tag.

33 (o) "Commission" means the Idaho fish and game commission.

34 SECTION 3. That Section 36-2107, Idaho Code, be, and the same is hereby  
 35 amended to read as follows:

36 36-2107. POWERS AND DUTIES OF BOARD. The board, which may by written  
 37 agreement authorize the bureau of occupational licenses as agent to act in  
 38 its interest, shall have the following duties and powers:

39 (a) To conduct examinations to ascertain the qualifications of appli-  
 40 cants for outfitter's or guide's licenses, and to issue such licenses to  
 41 qualified applicants, with such restrictions and limitations thereon as the  
 42 board may find reasonable.

43 (b) To prescribe and establish rules of procedure to carry into effect  
 44 the provisions of this chapter including, but not limited to, rules pre-  
 45 scribing all requisite qualifications of training, experience, knowledge of  
 46 rules of governmental bodies, condition and type of gear and equipment, ex-  
 47 aminations to be given applicants, whether oral, written or demonstrative,  
 48 or a combination thereof.

1 (c) To conduct hearings and proceedings to suspend, revoke or restrict  
2 the licenses of outfitters or guides, and to suspend, revoke or restrict said  
3 licenses for due cause in the manner hereinafter provided.

4 (d) The board is expressly vested with the power and the authority to  
5 enforce the provisions of this chapter, including obtaining injunctive re-  
6 lief, and to make and enforce any and all reasonable rules which shall by it  
7 be deemed necessary and which are not in conflict with the provisions of this  
8 chapter, for the express purpose of safeguarding the health, safety, welfare  
9 and freedom from injury or danger of those persons utilizing the services of  
10 outfitters and guides, and for the conservation of wildlife and range re-  
11 sources.

12 (e) The board shall have the power to cooperate with the federal and  
13 state government through its appropriate agency or instrumentality in mat-  
14 ters of mutual concern regarding the business of outfitting and guiding in  
15 Idaho.

16 (f) The board shall have the power throughout the state of Idaho to re-  
17 quest the attendance of witnesses and the production of such books, records  
18 and papers as may be required at any hearing before it. The board or its hear-  
19 ing officer may issue and serve subpoenas or subpoenas duces tecum in a man-  
20 ner consistent with chapter 52, title 67, Idaho Code, the rules of the of-  
21 fice of the attorney general, and rules 45(e) (2) and 45(g) of the Idaho rules  
22 of civil procedure. Payment of fees or mileage for service of subpoenas or  
23 attendance of witnesses shall be paid by the board consistent with the pro-  
24 visions of chapter 52, title 67, Idaho Code, the rules of the office of the  
25 attorney general, and rule 45(e) (1) of the Idaho rules of civil procedure.  
26 Disobedience of a subpoena or subpoena duces tecum may be enforced by making  
27 application to the district court. Disobedience by a licensee of a subpoena  
28 or subpoena duces tecum issued by the board shall be deemed a violation of a  
29 board order.

30 (g) The board shall have the power to appoint an executive director to  
31 serve at the pleasure of the board. The executive director shall carry out  
32 such administrative duties as delegated to the director by the board. The  
33 board may, in its discretion, refuse, sustain or reverse, by majority vote,  
34 any action or decision of the executive director. The executive director  
35 shall be exempt from the provisions of chapter 53, title 67, Idaho Code, and  
36 shall receive a salary that is fixed by the board.

37 (h) The board shall have the power to hire enforcement agents in or-  
38 der to conduct investigations and enforce the provisions of this chapter.  
39 All enforcement agents appointed by the board who are certified by the Idaho  
40 peace officer standards and training ~~advisory~~ council shall have the power  
41 of peace officers limited to:

- 42 1. Enforcement of the provisions of this chapter.
- 43 2. Responding to express requests from other law enforcement agencies  
44 for aid and assistance in enforcing other laws. For purposes of this  
45 section, such a request from a law enforcement agency shall mean only a  
46 request as to a particular and singular violation or suspicion of viola-  
47 tion of law and shall not constitute a continuous request for assistance  
48 outside the purview of enforcement of the provisions of this chapter.

49 (i) ~~By August 1 of each year, the board shall provide to the director of~~  
50 ~~the department of fish and game, in a manner and form prescribed by the direc-~~

1 ~~tor, the number of each species of big game taken in each management unit by~~  
 2 ~~clients of licensed outfitters between July 1 of the immediately preceding~~  
 3 ~~calendar year and June 30 of the current calendar year.~~

4 ~~(j) The board shall designate the number of deer or elk tags allocated~~  
 5 ~~pursuant to section 36-408(4), Idaho Code, among the authorized outfitting~~  
 6 ~~operations within each capped or controlled zone, unit, or game management~~  
 7 ~~area in a fair and equitable manner. The number of tags designated to each~~  
 8 ~~outfitter operation will be reported back to the Idaho department of fish and~~  
 9 ~~game for distribution designed to maximize the use of allocated tags by the~~  
 10 ~~outfitted public and promote predictability for individual outfitting op-~~  
 11 ~~erations that have previously used or ensured the use of the allocated tags~~  
 12 ~~designated to them. The board will report the number of tags designated to~~  
 13 ~~each outfitter operation back to the department of fish and game for distri-~~  
 14 ~~bution.~~

15 ~~Individual outfitter computation in capped zones shall be made as fol-~~  
 16 ~~lows: The average of the last two (2) years of all outfitted elk or deer tag~~  
 17 ~~use in capped zones will become the individual outfitter's base allocation~~  
 18 ~~number for that tag until the next big game season setting, when the tag num-~~  
 19 ~~bers will be recomputed.~~

20 ~~Individual outfitter computation in controlled hunts shall be made as~~  
 21 ~~follows: The highest year within the last two (2) years of outfitted elk and~~  
 22 ~~deer tag use in controlled zone, unit, or game management area will become~~  
 23 ~~the individual outfitter's base allocation number for elk or deer tags until~~  
 24 ~~the next big game season setting, when the tag numbers will be recomputed.~~

25 ~~The board shall promulgate all necessary rules to implement the provi-~~  
 26 ~~sions of this subsection.~~

27 SECTION 4. That Chapter 21, Title 36, Idaho Code, be, and the same is  
 28 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 29 ignated as Section 36-2120, Idaho Code, and to read as follows:

30 36-2120. DESIGNATION OF ALLOCATED TAGS. (1) Each time the commission  
 31 sets big game seasons, except as provided in subsection (3) of this section,  
 32 the board shall:

33 (a) Designate allocated tags using a formula that prioritizes an indi-  
 34 vidual outfitting operation's use, including the transfer of allocated  
 35 tags previously designated to it;

36 (b) Designate any remaining or additional undesignated allocated tags  
 37 based on each outfitting operation's base allocation number in compari-  
 38 son to its use of previously designated allocated tags and in proportion  
 39 to other outfitting operations; and

40 (c) Incorporate the base allocation number into the formula used to  
 41 designate allocated tags to each outfitting operation.

42 (2) An individual outfitting operation's base allocation number is  
 43 computed as follows:

44 (a) In capped hunts, the average of the last two (2) years of all outfit-  
 45 ted hunter tag use history in the hunt with the most similar framework to  
 46 the hunt for which the allocated tag is being designated.

47 (b) In controlled hunts, the highest year within the last two (2) years  
 48 of all outfitted hunter tag use history in the controlled hunt or hunts

1 with the most similar framework to the hunt for which the allocated tag  
2 is being designated.

3 (3) If the commission sets big game seasons more frequently than bien-  
4 nially, the board will designate allocated tags only for the hunts for which  
5 the fish and game commission adjusted the number of allocated tags.

6 (4) If the commission reduces the number of allocated tags for a hunt  
7 from the immediately preceding big game season setting for that hunt, the  
8 board will designate allocated tags as set forth in this section, and then it  
9 will reduce each outfitting operation's designation by the same percentage  
10 as the percentage reduction to the total number of allocated tags.

11 (5) If the commission allocates tags for a new capped or controlled  
12 hunt, the board will designate allocated tags for that hunt proportionately  
13 based on each outfitting operation's base allocation number.

14 (6) The board may adjust the number of tags that would be otherwise des-  
15 igned to an outfitting operation for a hunt based upon a request and demon-  
16 stration of hardship by one (1) or more outfitting operations authorized for  
17 that hunt, upon notice and an opportunity to be heard by all affected outfit-  
18 ting operations.

19 (7) Prior to turning back unsold allocated tags to the department of  
20 fish and game, a pool for these tags will be established within each hunt.  
21 These pooled tags will be accessible to other licensed outfitters in the same  
22 hunt for periods of time specified by the board.

23 (8) The board will notify licensees of the number of allocated tags des-  
24 igned to its operations and the basis for designation.

25 SECTION 5. An emergency existing therefor, which emergency is hereby  
26 declared to exist, this act shall be in full force and effect on and after its  
27 passage and approval.