

# Senate Agricultural Affairs Committee

Minutes  
2007



MINUTES  
SENATE  
AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 11, 2007

**TIME:** 8:00 am

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, Hill, McGee, Corder, Siddoway, Stennett, and Kelly**

**MEMBERS ABSENT/EXCUSED:** None  
(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)

**CALL TO ORDER:** **Chairman Gannon** called the meeting to order at 8 AM.

**INTRODUCTION:** As this was the first meeting of the legislative session, **Senator Gannon** welcomed the Agricultural Affairs Committee members, and the new committee members. Connie Bosserman will serve as the new committee secretary.

**GUESTS:** **Chairman Gannon** extended his welcome to Dr. Garth Taylor of the University of Idaho; Mr. Frank Priestley, President, Idaho Farm Bureau; Rick Keller, Executive Vice President/CEO, Dennis Tanikuni, Kent Lauer, Russ Hendricks, John Thompson, and Wally Butler, also of the Idaho Farm Bureau.

**COMMITTEE BUSINESS:** **Chairman Gannon** discussed the overview of what can be expected in the next ten years in regards to the field of agriculture. The things that are already being seen on the horizon, such as two ethanol plants proposed for Cassia County, have become a real concern for the cattlemen in regards to the price of corn with the advent of the ethanol plants. Many factors are starting to come into play. Agriculture is going to be a lot different in ten years and we need to be looking down the road as a committee.

**Chairman Gannon** proposed to the food producers that when the commodity groups and associations come and talk, they talk about the challenges they think the commodities will face in the next ten years. How can we, as a legislature, help maximize the agriculture for Idaho? We have done a lot to maximize the business community in Ada County.

**Chairman Gannon** opened up the conversation to the committee members for comments. There were no comments from the committee members.

Rich Garber, University of Idaho Director of Industry and Government,

College of Agricultural and Life Sciences, introduced Dr. Garth Taylor of the Agricultural Economics and Rural Sociology Department. Dr. Taylor presented to the Committee a power point presentation of the financial condition of agriculture in September of 2006. The JFAC committee requested that the university share with the committee a picture of the financial condition of agriculture in 2006 and take a look at 2007.

Forecast for 2006 (Calendar Year):  
Cash Receipts  
Farm Income  
Outlook for 2007 (Calendar Year)

Dr. Taylor went through the table on the back of the tri-fold that shows in detail the 2006 cash receipts:

**Chairman Gannon** asked if the beans were consumption or seed beans. Dr. Taylor answered that they are dry edible beans. Onions are up 9%, extremely volatile in terms of production as they go up and down in price, and sugar beets, even though they were up 22% and broke new records in production, they were still surpassed by hay. Greenhouse industry is down about 2%.

See the Pie Chart of Cash Receipts in the attached tri-fold:

Milk and beef, which are well over half, 55%, of the total revenues of the state of Idaho, come from the livestock. This is a dramatic shift of Idaho agriculture. Milk and beef has taken over and caused a huge shift in all of agriculture in the state of Idaho.

2006 is about 20% above the 40 year average. The 37 year low was in 1971. Agriculture is doing very well and breaking new records in size. Our portfolio of crops is getting more narrow agricultural production in the state, and it's also more tilted again towards the milk and the cattle. Milk is getting close to a third.

**Chairman Gannon** asked Dr Taylor if that included the Holstein steers? Dr. Taylor answered yes, it includes anything sold as beef.

**Senator Kelly** asked Dr. Taylor if he would be addressing why this is happening? Farmers are getting larger and more specialized in order to be sustainable. It reflects those two trends, but it also reflects the huge comparative advantage that Idaho has in milk production.

**Senator Stennett** refers to **Chairman Gannon's** question about the Holstein calves. They will trade places three times in three different orders by the time they're sold. Is the value the same, Dr. Taylor?

Dr. Taylor said no, it reflects just the gross sale of cattle. We are losing diversity in the state of Idaho. It also reflects that we have to specialize and grow bigger. To be sustainable, it is now big business and big food. It also reflects on the local economies. Not only is agriculture shifting in

terms of what it is in Idaho, but all of the ancillary industries are shifting, which creates a change in the structure of Idaho's agriculture business economy. Government payments are down about a quarter this year. Emergency payments were virtually nothing last year. Conservation payments stayed static but it's down dramatically from last year.

**Chairman Gannon** stated that the CREP program will change that significantly. Dr. Taylor explained that in 2005, government payments were about 17% of net farm income, and now it's down to about 14%. Idaho is not on the government dole. It's not a state that grows crops, garnering huge amounts of subsidy. In Idaho, we gather less than 1% of the total farm payments in the US. In 2005, there was over a third of the net farm income of farmers in the United States that were government payments.

**Senator Corder** points out the indirect subsidies that are price supported in the marketplace, rather than direct, and the correlation with the direct payments. Dr. Taylor mentioned that these were just the direct payments.

**Chairman Gannon** mentioned that because corn is a subsidized crop, the price is going up and up because of all the ethanol plants and the tax credits that are going to those plants, and are not reflected in these figures.

**Senator Kelly** mentioned that there are price supports that are not reflected in these numbers. The support prices that are reflected are the milk prices, when they dip below the support prices. Milk was caught with very low prices this last year but some of them were not in the range and are reflected here.

**Chairman Gannon** stated that our dairy industry doesn't get much subsidy in milk, it's mostly the small eastern New Jersey dairies and New England.

**Senator Corder** sees the reduction of net income by 20% and a growth of 9% of gross receipts, but that's compounded and suggests that some of the risk is associated with the lack of diversity. Hopefully, that issue will be addressed. Dr. Taylor stated that is a problem, especially when all the eggs are put in one basket. It may be one of the things seen in the future.

Dr. Taylor continues by saying that farm income are revenues minus expenses, not just the gross, and is down 23%. On the revenue side, livestock was weak, dairy sectors were strong from cash receipts and crops, government payments off by over a third but on the expense side, we will see a gap in energy prices. Also, farming inputs, labor and other types of inputs are really escalating for farmers. It's a general across-the-board escalation of prices. Energy drives a lot of that.

**Chairman Gannon** asked Dr. Taylor if the market is starting to reflect the costs, in regards to farm labor, and the impacts of the tightening of borders? Dr. Taylor stated that it may also reflect the impact of the

shutdowns of beef processing plants in Hiram and the increase in labor costs.

The next subject is the income volatility and stability of agriculture. We are down over a quarter in 2006, 2005 was down by over a third, 2004 was up by over 100%. When farmers experience such volatility, we really don't see that kind of a swing in the local economy. The bottom line; cash receipts are up to a new record high, \$4.5 Billion. We've dropped below a billion dollars, down to \$868 Million.

An outlook for 2007; beef may not break records again and again. We've had some tremendous years but the prices are going to be fairly strong. The cattle cycle has not started yet and farmers have not yet started increasing herds again. The prices may not be as good for Idaho beef but that is to be seen. What's really going to hurt is that ranchers are going to have to ship their cattle and incur a tremendous expense, either down to Hiram or into Oregon or Washington to have them slaughtered. The bottom line is going to hurt the Idaho farmers just simply because of the transportation costs, if nothing else.

**Chairman Gannon** asked if Dr. Taylor sees the possibility of another plant coming in, now that the Tyson plant has closed? Dr. Taylor is not sure if that possibility will come about. He feels **Senator Little** may know more about that than himself, but speculation is too difficult.

**Senator Corder** mentioned that one of the implications of not having a slaughter house nearby is that all the cattle that were expected to be shipped within the last 60 days have not been shipped. Actually, the farmers may be keeping them and feeding them to a higher weight. There may be some long term implications of that, that are hard to quantify. Dr. Taylor said yes, and also in long terms, the farmers may shift exactly how much they are feeding here. Farmers are really resourceful when it comes to these things. Idaho can produce milk better than any state outside of California. Idaho has cheap feed and great weather. We are blessed with good weather and it reflects a huge comparative advantage in Idaho. Prices are expected to be low in the next year. We will see some high feed costs and the ethanol situation will reflect back into beef and cattle bottom line. We are third in the nation in cheese production and we're a state to be reckoned with in terms of the dairy industry. I hope the farm bill reflects that Idaho has prominence in milk production.

Potatoes; stable to up production, acres are up. In wheat production, prices are going to be strong, lowest stock since the mid 90s. Plantings came out yesterday. Cash receipts may be 10-15% higher than last year.

Barley; extremely important crop in Idaho. About 3/4 of the crop is now malted barley. Production costs rose 7%, interest rates are stable and may even go down next year. Higher pumping cost and higher labor costs are on the horizon for 2007, and maybe for a great number of years. High fertilizer costs and gas prices are \$2.25 a gallon and might rise even higher hurting bottom lines. Land costs are going up significantly. Water issues in Idaho; it's just a matter of time before the CREP buys out ground

water leases and will start to reflect back into these numbers again.

**Senator Stennett** asked Dr. Taylor what affect the factors have on a cash basis? Dr. Taylor noted that CREP is suppose to sign up 100,000 acres. There is less than 13,000 that have been signed up. The lease rate was not set by bargaining but on cash leases.

**Chairman Gannon** mentioned that the lack of enthusiasm for the CREP program is centered around the supreme court, waiting to see what the water decision will be because they are holding out. Dr. Taylor said that eventually what this will do is affect the bottom line.

2007 Farm Bill. Idaho is the fourth largest dairy state in the nation.

**Senator Corder** asked if a mechanism existed to track the regional viability of agriculture based on some of Dr. Taylor's energy conclusions? Dr. Taylor stated they haven't done that yet. They have just reflected the types of overall health.

**Senator Schroeder** asked Dr. Taylor, with respect to energy costs, have there been any models on farm income that show the impact of those that use bio-diesel, that they make themselves, or those that have installed other energy sources? It would be great if we had by-products that could be used. It is absolutely key, especially when farmers are making huge long-term investment.

**Senator Schroeder** mentioned that he is from Moscow and, in the Kendrick area, there are farmers that are pressing rapeseed and making bio-diesel. Are they saving money, how much and what's the long term prospect for them? Dr. Taylor said he wishes they had some good facts and figures to give the committee.

**Senator Schroeder** wonders if the legislature would be proactive if they would ask someone to collect that type of information. Dr. Taylor added that the department should be looking at that.

**Chairman Gannon:** Follow-up question-should the Agriculture Department at the University of Idaho be doing that, and if they are not, what is keeping them from doing it?

**Senator Schroeder** stated there are a couple of significant things that have happened. The biotechnology task force and some of the members had directed the tech school to take the lead a couple of summers ago. Also, the University of Idaho has funds for alternative fuels and it appears that, based on the legislative intent expressed by that committee, alternative fuels and the university are joined at the hip at the moment.

**Senator Schroeder** suggests this committee might consider directing a formal letter from the chairman to the dean restating the issue and asking if there are resources in place, or is assistance needed.

**Senator Hill** mentioned to Dr. Taylor that lending practices might guide a

farmer's decision to diversify or specialize by the ability of the lenders to say yes to loan for some and not for others. The lenders have been considering loaning on the cash flows of certain crops. If they are going to lend on certain crops only, it could be a self-fulfilling prophecy. If their market analysis doesn't show these things, they have looked very hard at this situation.

**Chairman Gannon** asked if there are any further questions from the committee? There are no more questions and **Chairman Gannon** thanks Dr. Taylor for coming and speaking to the committee.

**Chairman Gannon** announced that the next presentation will be Kent Lauer, Public Affairs Director of Idaho Farm Bureau Federation.

Mr. Lauer began by saying that the outlook for Idaho in the coming year remains positive because of new opportunities. Particularly in regards to bio-industries. Farmers will not only be producing food and fiber, they will also be energy producers. Agriculture will thrive and adapt. The vast majority of Idaho farms are family owned businesses. We encourage the legislature and others to work on improving Idaho's over-all business climate. By focusing on the challenges that small business owners face; costs of complying with regulations, higher taxes and fees, improving the business climate, will also trigger economic development in rural communities.

Next will be a brief overview of the current economic status of agriculture in Idaho. Government figures rank Idaho agriculture fifth behind manufacturing, transportation and public utilities, retail trade, finance, real estate and government. Idaho agriculture accounts for nearly 1/3 of its gross state product. Idaho eighth nationally in forest and lumber production.

More than 18% of the jobs in Idaho are either on farms or dependent upon farms. Idaho farmers paid \$84 million in property taxes in 2005, \$10 million in vehicle and license fees. There are about 11.7 million acres of farmland. An average Idaho farm is 470 acres with an average market value of \$613,000. Farm families are having fewer children and the costs make it very difficult for young farmers to begin their business. Large farms account for a small share of the total number of farms, but they make up a large share of farm sales.

**Chairman Gannon** asked if there are any statistics on large farms? Mr. Lauer mentioned that when the statistics are calculated, small farms are included.

Kent Lauer introduced the guests from the Idaho Farm Bureau: Russ Hendricks, Political Affairs Manager, Jake Putnam, Information Division, Steve Ritter, John Thompson, Rick Keller, Vice President, Wally Butler, Public Affairs.

Russ Hendricks represents the Idaho Farm Bureau primarily on tax and energy issues. Agriculture is an energy-intensive industry and insuring

abundant supplies of energy at stable and competitive prices is vital to the long term profitability of Idaho as well as many other industries. The work that **Senator Gannon** and **Senator Kelly** have done in the interim energy committee has been much appreciated.

Fuel and fertilizer prices have gone up more than 100% since 2004. In 2006, agriculture used more than 76 million gallons of diesel fuel here in Idaho. Just a 10% reduction in the price of fuel would have saved agriculture \$23 million, which would have stayed in their pockets and circulated the local economy. The increase in natural gas prices has forced 45% of the domestic fertilizer production industry to shut down, which has been replaced with less expensive imports. Unfortunately, government policy is creating a supply squeeze for natural gas. Natural gas has been the fuel of choice for more than 90% of the new electrical generation to come on line in the last decade. A map reflects the five electrical generation power plants that have been built as well as wind facilities.

**Chairman Gannon** wonders if the five plants are peakers. Russ is only familiar with the ones in this area and they are peaker plants.

As we continue to have further reliance on natural gas, our access is being limited by environmental regulations. Hopefully, the legislature will consider the ramifications of the increasing dependence on natural gas into the future. Bio-fuel production is proving to be a welcome boom to agriculture nationwide. The Farm Bureau members are anxious to duplicate that same success by producing bio-fuels here in Idaho. It also adds to the local fuel supply, reducing and stabilizing fuel prices for all consumers, not just agriculture. A bio-fuel plant would contribute to the local area in numerous ways. If Idaho is to capitalize on this up and coming market, it must join the ranks of states who have enacted policies to promote the production and use of bio-fuels locally. There are barriers that we have to address before we can make significant progress in this area.

**Chairman Gannon** remarked that the Magic Valley has two ethanol plants that are actively being planned, but it's all out-of-state money. Russ Hendricks mentioned that corn production is not in excess in Idaho like it is in other states. In fact, Idaho imports corn to supplement its own feed. The exciting thing will be the discussion on cellulose ethanol.

**Senator Kelly** asked if the two plants being proposed in the Magic Valley are large or small? Russ Hendricks comments that there have been a lot of proposals but none built yet. The two most recent one is the Pacific Ethanol plant that is capable of making 50 million gallons is in the Burley area and the other one is in Hayburn, the old Simplot processing facility being financed by Renova Energy, which will produce 20 million gallons. These facilities are average sized.

The Farm Bureau members are very appreciative of property tax relief created in the special session this last summer. It will be extremely helpful in regards to the higher expenses energy prices have caused for



our producers. Since the increased homeowner exemption was indexed to the Idaho housing price index, that much appreciated tax relief will be eroded each year as the homeowner exemption grows. This will shift additional taxes to agriculture and other non-residential taxpayers. By our calculations, this will shift an additional \$2 million of property tax to agriculture. Therefore, it could reduce the friendliness of the business climate here in Idaho over time as that continues to happen. Immigration reform continues to be a top priority for agriculture to insure long term stable supplies of seasonal labor to produce and harvest many crops. Last year, hundreds of thousand of dollars of fruit crops in the Treasure Valley rotted in orchards as labor was not available to pick or package. The legislature needs to be aware of how important an issue this is to the continued viability of many segments of Idaho agriculture.

**Senator Corder** asked what the income tax paid by agriculture did over this last year? He also wonders what the value of the agriculture land exemption is from property tax? Russ Hendricks remarked that he doesn't know what the figures are, but would be happy to do some checking.

**Senator Schroeder** asked with respect to orchard owners and the lack of laborers, were there any owners that lost their operations? Russ Hendricks explained that some of the owners, according to the Idaho Statesman articles, did lose hundreds of thousands of dollars of product because they couldn't get the labor to pick it, but didn't know of any operations lost.

**Senator Schroeder** also asked if the Farm Bureau has a written position on immigration policies for the US? Russ Hendricks answered yes, the American Farm Bureau has a policy, and because labor is a national issue, there is explicit policy in the American Farm Bureau policy book and he would be happy to provide that information to the committee.

**Senator Stennett** reflects back to the statistics where the homeowners tax exemption has increased and so has agriculture land values, so presumably agriculture is paying a lot more in tax or maybe agriculture is paying the same, based on the exemption? Russ Hendricks answers that those calculations are very rough and, yes, the agriculture property taxes will be going up because of that exemption.

**Senator Stennett** requested of Russ Hendricks that he would like to see information as to what agriculture taxes are actually doing. According to the Associated Taxpayers of Idaho, the average residential owner's taxes decreased by 12.8% and the average agricultural tax burden decreased by 21.7%.

Kent Lauer continues by addressing how the state can enhance rural communities and also discussed regulatory reform. Large business has taken it's toll on small business in Idaho. Idaho's rural heritage must be maintained. As Idaho's population increases and people move into rural areas, the lifestyle can quickly disappear. To encourage the survival of rural communities, the Idaho Farm Bureau recommends several actions:

agricultural education implemented, recommend right-to-farm statutes to allow farms to continue operating as the urban areas encroach; Idaho's rural communities receive their fair share of government budgets and services; and programs to encourage economic development in rural communities are supported. The state of Idaho needs to continue investing in infrastructure improvements to meet the current needs to meet the needs in the future. Transportation improvements are very important. There are few short line railroads left in Idaho. The loss of short line railroads puts more demand on trucks and highways. Rural areas need to be prepared for a positive transition as the population grows.

Kent Lauer suggests that complying with regulations is one of the largest costs of doing business for ranchers and farmers, and he urges the committee to look carefully at the regulations and analyze them to consider their economic impact.

**Chairman Gannon** remarks that the committee hears this all the time. He wonders if there are specific examples of regulations that may be unrealistic or overburdening? Kent Lauer said that the regulations are not unreasonable but they are costly and would ask that the committee take that under consideration.

**Senator Stennett** asked that if the Farm Bureau had examples of problem regulations, it would be most helpful to put them on the table. That's what the committee's function is, and they would like to help out in that regard.

**Senator Schroeder** asked what the legislature could possibly do to make up for the effects on local communities and local schools? Kent Lauer said he doesn't have a clear answer but suggests that the legislature needs to look at how the monies are contributed for schools and roads in rural communities.

**Senator Schroeder:** Follow-up-Does the Farm Bureau has a position on the availability of monies for rural communities? Kent Lauer remarked that the Farm Bureaus in the northern part of the state would probably come forward with a resolution and would want to be involved in that decision-making.

**Senator Corder** reflected back on the question of tax policy and appreciates the fact that the Farm Bureau comes and tells their story of agriculture and how it should be here to stay. One of the frustrations is that the Farm Bureau tends to be philosophical. The federal government has failed to keep farmers on the ground. What can the committee do, apart from tax policy, to achieve keeping agriculture viable in the state? Let's talk about how the legislature can achieve that goal apart from tax policy; bring the committee some examples.

**Chairman Gannon** invites the Farm Bureau to produce some examples of how the legislature can help agriculture and plan on visiting again with the Senate Agricultural Affairs Committee.

Russ Hendricks finished with the discussion of water trends. Crop production cannot occur without irrigation in the southern portion of this state. Idaho is one of the fastest growing states in the nation and without additional storage, the demand for water will continue to mount. Potatoes have a bright future in Idaho. Sugar beets are also under a co-op arrangement, but the sugar industry should remain stable into the future.

**Chairman Gannon** mentioned that Monsanto maintains that if there is acceptance of "Round-Up ready" sugar beets, it could change the course of sugar beets. Russ Hendricks agrees that there are many farmers very anxious to be able to grow sugar beets.

Russ Hendricks continued by stating that the expanding ethanol industry nationwide has increased demand for corn, and additionally has helped lift prices on all grains across the board. Wheat has also helped out as well as other grain prices to moderate significantly over the next couple of years. The forest products industry has worked through some challenges, demand is strong for materials, and the housing market has cooled off. Transportation is going to remain a big challenge for Idaho. Freight rates are 180% here to move commodities compared to Midwest prices. Rail transportation is needed and short lines will help maintain that competition. Livestock prices have been very good over the last three years. This is offset by higher grain prices and cattle producers are having to pay increased transportation costs. It will continue to be an ongoing challenge for that industry.

**Senator Stennett** agreed that transportation costs won't change soon, but is there something the legislature can do to make it better? Russ Hendricks mentions that there are facilities sitting idle and will be happy to sit down and discuss that in more detail.

Russ Hendricks continues with statistics about the dairy industry by saying it is pushing to the eastern part of the Magic Valley and permits for eleven 10,000 head dairies that are going to be built in the near future. That will be a 20% increase in the dairy industry if that goes forward.

**Chairman Gannon** mentions that there will be a need for more cheese plants to absorb this growth. Russ Hendricks agrees that because of this continued expansion, there will be additional processors in Idaho to utilize that milk, and of course bring additional jobs to the rural areas. One of the challenges is manure and how best to manage it. New technologies are constantly being brought forward that are providing solid solutions to that issue.

Russ Hendricks continued about the bio-industries. He refers to a graphic that shows a refinery in Mead Nebraska, E3 Bio-Fuels. It shows a continuous cycle of an innovative way to manage manure and it gives excellent ideas of how we can deal with these issues here in Idaho. Several bio-fuel facilities have been proposed for Idaho. At this point, only one, Blue Sky Bio-Diesel, is producing ten million gallons per year which is 1.5% of our annual diesel fuel consumption. Idaho is also a good

candidate for the emerging field of cellulosic fuels and bio-refining. This would create an entirely new market and provide farmers with an additional revenue stream, while reducing our dependence on oil.

In conclusion, bio-technology will continue to revolutionize the way we think about agriculture into the future. The bottom line; agriculture can play an increasing role in Idaho's economy as it expands into the future if we continue to provide a supportive and business-friendly atmosphere.

**Senator Stennett** remarked that this is the closed loop system we have talked about for ten years. We have ample numbers of cows and why aren't we doing it? Russ Hendricks agrees that this plan has been talked about for years, and that the hold-up is technology. Now that the technology has caught up, we have what the industry is looking for.

**Senator Schroeder** asked if the Farm Bureau can create a list of their proposed water storage sights?

**Chairman Gannon** thanked the Idaho Farm Bureau for coming and announced that the **Senate Agricultural Affairs Committee** will have a **Joint Senate and House Agriculture and Resources Committee** January 12, 2007, to discuss the elk situation and also announces that Tuesday, January 16, 2007 **Senate Agricultural Affairs Committee** will have the annual briefing from the Idaho Department of Agriculture. The Rules books will be available as soon as they are distributed to **Chairman Gannon**. If there is anything that the members would like to see come before the committee, please present the ideas to the **Chairman** and if there are no other questions from the committee members, the committee is adjourned.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### JOINT SENATE AND HOUSE AGRICULTURAL AFFAIRS COMMITTEES RESOURCE AND ENVIRONMENT COMMITTEE RESOURCES AND CONSERVATION COMMITTEE

**DATE:** January 12, 2007

**TIME:** 9:00 am

**PLACE:** Gold Room

**MEMBERS PRESENT:** **Chairmen Gannon, Schroeder, Trail, and Stevenson, Vice Chairs Heinrich, Andrus, and Wood Senators McGee, Corder, Hill, Siddoway, Stennett, and Kelly Senators Cameron, Little, Coiner, and Langhorst Representatives Lake, Bolz, Shirley, Patrick, Pence, Chavez, Durst, Bell, Barrett, Moyle, Eskridge, Raybould, Bedke, Shepherd, Brackett, and Vander Woude**

**MEMBERS ABSENT/EXCUSED:** **Vice Chair Pearce, Senators Cameron and Andreason**  
(Please contact committee secretary with any questions regarding attachments given out by committee guests at 208-332-1330)

**CALL TO ORDER:** **Chairman Gannon** called the meeting to order at 9 am.

**INTRODUCTION:** **Senator Gannon** brought the meeting to order and welcomed the Joint Senate and House Committee members and guests and noted that it is difficult to determine if there is a quorum present. Chairman Gannon determined that as long as all four committee chairs are present a quorum is present.

**GUESTS:**

**COMMITTEE BUSINESS:** **Chairman Gannon** opened the meeting by commenting that the respective chairs were discussing what they had anticipated this session would be with regards to the domestic Cervidae issue. The four chairs agreed that they needed to start with a briefing from the Idaho Department of Fish and Game, with regards to the escaped elk situation that happened over the summer. While this is a rather unusual grouping, I think that this setting is appropriate. I would remind everyone today that this is a briefing. There will be no public testimony. Because of the logistics of the room, I am going to ask everyone in the audience to turn their chairs around because the presentation will be on the back wall. I would also encourage you to hold your questions until the end because it's going to be hard to do the operation that we normally work under. With that, I would ask my fellow chairmen if they have any comments before we get started. If not, then I will have everyone turn around and face to the back.

**Chairman Gannon** started this morning's briefing by introducing Mr. John Chatburn, Deputy Administrator for the Division of Animal Industries for the Idaho Department of Agriculture. John, you have the stage.

John Chatburn: Thank you, **Mr. Chairmen**, and members of the various committees. I have put together for today a chronology of the domestic Cervidae program. The first entry that we found in our files was 1991 when a herd of fallow deer was imported from Montana to Idaho. They were determined to be infected with Tuberculosis (TB). They were depopulated by the Idaho Department of Agriculture and the Department of Fish and Game in a joint disease control effort. In 1995, the legislature approved the first domestic Cervidae rules under the Department of Agriculture's authority. These rules included provisions for disease testing on imported Cervidae and licensing of domestic Cervidae farms. In 2000 mandatory Chronic Wasting Disease (CWD) testing and importation requirements were added.

In 2001, the legislature authorized the Department of Agriculture to issue civil penalties. Later that year, we issued our first civil penalty to a hunting ranch located in Madison County Idaho. In 2001, also, there was a CWD trace out that revealed 37 domestic Cervidae had been previously imported to Idaho from Colorado and had potentially been exposed on a farm in Colorado. Idaho Department of Agriculture quarantined the farm in Salmon, depopulated all 37 animals imported from Colorado and collected samples for CWD testing. There were no positive samples tested. In 2002, the legislature amended the domestic Cervidae law to eliminate the provision that allowed ISDA to access each day of an ongoing violation as a separate violation. The actual violation accessed a civil penalty of \$60,000. In the early 2000s, we began breaking into separate rule chapters. In 2002, we published rules governing domestic Cervidae as a separate rule chapter.

At that point in time, the requirement to license domestic Cervidae farms was removed from that rule. The Attorney General, in his review, determined that the Department of Agriculture did not have the specific statute authority to license domestic Cervidae farms, so that requirement was removed from the rules. During the 2003 session, the department proposed a bill that required permitting domestic Cervidae farms. That bill was not passed by the legislature.

In 2006, numerous elk escaped from a domestic Cervidae farm in eastern Idaho. On August 14, the elk escape was reported to the Department of Agriculture by a neighbor. We immediately contacted the owner of the elk farm to determine if he was trying to recover the elk. He said he was unaware of the escape. On August 15, 2006, our inspectors went out, found an area where the outside fence had been breached and where it had been repaired. During the month of August, and into early September, the owner reported to us that he was making progress on retrieving the escaped elk.

September 7, 2006, Governor Risch signed an executive order directing the Departments of Fish and Game and Agriculture to destroy as many of the escaped elk as possible. September 9, 2006, both departments, in a concerted effort, carried out that executive order.

**Chairman Gannon** asked if the committee had any questions for Mr. Chatburn.

**Senator Schroeder:** The event that led to this situation was that the fence was breached. Could you characterize how the fence was breached, the reasons why the fence was breached and whether this type of breach would become an ongoing problem on elk ranches?

Mr. Chatburn responded by saying the fence was breached at a point where two rows of fencing were spliced together. There had been reports that a bear chased the elk and there were other speculations that the elk were pushing on the fence. Over the ten years that the Department of Agriculture has been in charge of the domestic Cervidae program, this was the first elk escape that has been documented where the fence was breached. Usually the escape is through an unsecured gate or something like that.

**Senator Schroeder:** Follow-up question: How would you characterize the topography, soft soil, rocky, flat, ravine? Mr. Chatburn characterized the area as northeastern Fremont County, some trees, fairly flat area.

**Representative Barrett** made a remark about the splice: Mr. Chatburn responded by saying the fencing traditionally used on elk farms comes in 330 ft rolls, the same fencing we use to purchase with our federal grant money. The owner had patched the breach in the fence by the time our investigators arrived on August 15, so it was impossible to determine any potential outside human activity in regards to the breach.

**Representative Barrett:** I am wondering how the fence was fixed, also can you explain the rules for Red Deer Genetic (RDG) testing on page 10 of the rules under Genetics? Mr. Chatburn replied that the owner of the animal was presented with all three options, and he chose to have the animal destroyed.

**Representative Trail:** Regarding page 11 of Requirements: Is there any inspection carried out by the Department if farmers have met these requirements or any other type of procedures? Mr. Chatburn answered yes, each farm is inspected annually to see if it is in compliance with the rules. If there is an escape, we would go back out and re-inspect the facility to determine if there was an escape.

**Representative Shirley:** Are there any specifications for size of ranch required to sustain a certain number of elk? Mr. Chatburn answered no, domestic Cervidae are considered livestock. The Department of Agriculture does not have regulations for square footage in feedlots, or pasture for cattle or horses, here in the Treasure Valley. It is the owner's responsibility to provide supplemental feed.

**Representative Shirley:** If the owner does not take the responsibility to have the square footage to take care of livestock, what happens? Mr. Chatburn replied that the department could put together an animal care case if there was an instance where the animal cruelty laws needed to be addressed and animals could be seized if necessary.

**Representative King:** How often do you test for Brucellosis? Mr. Chatburn responded by saying all domestic Cervidae that are imported into the state of Idaho have to be tested negative on two tests or come from a certified Brucellosis free farm. There are samples collected at slaughter, unless the owner is trying to create a certified Brucellosis-free herd. Then there is a set of tests that are required for that certification. TB is also tested for at change of ownership and a gross exam done at slaughter.

**Representative King:** Follow-up question: Is there a test for parasites on an annual basis? Mr. Chatburn responded by saying the disease control program on domestic Cervidae is the same as for all other livestock. Unless there is a new provision, those tests do not include annual tests. The regulated diseases are TB, CWD, Brucellosis, however, import requirements call for no imports from east of the 100th meridian.

**Senator Langhorst** referred to the last slide in the presentation: Are you able to fill in the statistics in such as “status unknown” or “retrieved by owner” about other elk escapes? Mr. Chatburn responded by saying that since the Department of Agriculture started the domestic Cervidae program, there have been 221 animal escapes that have been reported, including the most recent escapes.

**Senator Langhorst:** On a previous slide, you mentioned a bill in 2003 in which the legislature declined the opportunity to create a licensing process. Was that the only provision in that bill or were there other provisions in that bill? Mr. Chatburn said that there were several other provisions in that bill and some of those provisions have been enacted by the legislature in subsequent bills. We issue permits for domestic Cervidae farms.

**Senator Langhorst:** Follow-up question: Was that bill the one that extended open range law to escaped Cervidae and did it also create a new classification for deer, moose and domestic Cervidae or are those different bills? Mr. Chatburn mentioned that those were other bills that were put forward by the domestic Cervidae industry. This bill was brought forward by the Department of Agriculture.

**Representative Bedke:** Would licensing or permitting have prevented this escape or prevent future escapes? How much weight was given to private property rights by those that were involved in taking care of this problem? I believe the animals, whether they be inside or outside, are considered private property. Mr. Chatburn answered by saying the Departments of Agriculture and Fish and Game followed Governor Risch’s executive order to the best of their ability and will leave any legal determination to an attorney. He does not think licensing or permitting would prevent any escapes.



**Representative Trail:** Is there any requirement for double fencing and if so, would it increase security? Mr. Chatburn is not aware of the fencing requirements in any other states. If there were double fences, there would be a redundancy in the containment.

**Senator Stennett:** The Rules state that the owners should contact the state department within 24 hours of an escape. How can you tell how long the fence may have been down? Mr. Chatburn stated that the owner did not contact the department and was not aware that the elk were out but said he would address the situation immediately. We sent out two livestock investigators and by the time they got there, the fence had been fixed.

**Senator Stennett:** What would the penalty be if the owner did not notify the department? Mr. Chatburn stated that failure to notify the department carried a maximum civil penalty per violation of \$5000.

**Senator Schroeder:** In the areas where we have domestic elk ranches, can the animals on the outside of the fence be nose to nose with those inside the fence? Mr. Chatburn confirmed that there could be disease transmission with nose to nose contact. The department is always concerned with disease transmission, that's what we do. We've never had CWD, we've never had TB, other than the deer herd that was imported and TB positive, but was depopulated, so other than that there has been no evidence of TB.

**Chairman Gannon:** Because of time, the Chairman will call on one more question and then the Department of Fish and Game will proceed and then, further questions as time allows.

**Representative Wood:** How common or likely is it that wild elk will get into these operations? Mr. Chatburn said that depending upon the location and topography, wild Cervidae could be in the enclosure when gates are closed.

**Chairman Gannon:** Thank you, John, I'm sure you will be back many times. At this time I would like to call on Jim Unsworth, the Bureau Chief for Wildlife for the Department of Fish and Game.

Mr. Unsworth: In the wild elk population, there are about 125,000 elk statewide and about 100,000 hunters annually. The hunters produce about \$170 million annually to Idaho's economy. There are about 78 domestic farms. The number of farms has increased the last decade and the Department's involvement has become more common. The main issue is disease, but most can be minimized with adequate rules, regulation and enforcement.

The biggest issue is animals being trapped in fenced surroundings. The acreage of these farms is not large, but we do not feel that sportsmen's dollars should be used for management of domestic animals. The final issue is the idea of "fair chase" and public support for hunting. That's the social question that everyone will be struggling with.

The commission came up with policies that will be relayed to the Legislature and they are: 1) minimize disease and genetic risk, 2) not recognize shooting animals behind high fences as hunting, 3) principles of fair chase for wild game, and 4) spending sportsmen's dollars on domestic Cervidae issues.

**Representative Wood:** The legislature doesn't spend sportsmen's dollars on domestic issues; it's the Department of Agriculture that spends the money. Mr. Unsworth commented that the commission pays their conservation officers to clear out wild animals, work with the departments to control the fences and pays people to implement the Governor's orders. The Commission does spend sportsmen's money.

**Representative Wood:** If we're saying that we don't want a domestic herd to be classified as hunting and there should be an open hunt, what about farmers that want to have herds on their own property? It seems to be a bit unfair for hunters to go across private property. Isn't this about free enterprise? Mr. Unsworth answered by saying that the Commission does not consider the shooting of domestic elk behind high fences under the definition of hunting.

**Chairman Gannon** stated, with regards to hunting pheasants that have been raised in captivity and released and other such game, would the Commission consider that hunting or fishing, since they have not been raised in the wild, and possibly have lost their survival instincts? Mr. Unsworth commented that the commission has not considered these issues yet.

**Senator Schroeder:** This year, Cervidae bills will be going through the Senate Agricultural Committee. What we need to determine is if the courts or the state of Idaho determines that it is a takings, then what will be the effects of closing farms down and effect in money terms? Also, there seems to be an issue of genetics and large antlers. What is the impact when red deer genes are introduced into a herd? These are some questions we need answers to as we move on in this committee.

**Senator Corder:** Mr. Unsworth, the Fish and Game Commission doesn't think hundreds of dollars should be spent on these types of operations. I can appreciate that, so would the Fish and Game Commission be willing to concede all responsibility and activity for game farms to the Idaho Department of Agriculture? Mr. Unsworth responded by saying that the commission now, according to the rules and statutes, has very limited involvement which is inspecting fences that have wild animals inside.

**Senator Corder:** So, if we could remove that responsibility, then that objection of the commission should go away? We would make inspecting fences the Department of Agriculture's job. Mr. Unsworth stated that as long as the commission can fulfill it's mission, which is preserving and protecting the wild animals of the state, there wouldn't be an issue.

**Representative Trail:** Jim (Unsworth), I received a question from a

constituent. This individual wonders if the position taken on the “fair chase” concept might not be in conflict with the Americans for Disabilities Act. Are there some operations that cater to hunters who are disabled? Mr. Unsworth said he does appreciate those folks’ desires to have these opportunities and we have worked with some of the disabled folks to allow them to kill turkeys. These opportunities are available inside and outside of fences.

**Representative Bedke:** In your opinion, are there shortcomings in the statutes and rules as presently constituted, and what are those that would keep you and your agency from accomplishing your point? Mr. Chatburn remarked, **Mr. Chairman**, I believe that the Department of Agriculture feels that additional meat to their rules would help them enforce them.

**Representative Bedke:** I ask, from the Department of Fish and Game’s perspective, what are the shortcomings? Mr. Unsworth answered that their issues are with the diseases and the genetics. Unless we can assure no contact, there would always be some risk, whether it be huge or small, that has to be determined. The hunting and “fair chase” needs to be socially decided. Fencing or siting of these farms where there is low potential for contact with wild animals would certainly help.

**Representative Bedke:** Do you feel the rules and statutes are secure enough to alleviate your concerns with regards to disease and genetic intermingling? Mr. Unsworth said no.

**Representative Bedke:** So, will the agency be bringing some suggestions as to which statutes and rules need to be beefed up? Mr. Unsworth replied we will work with the Department of Agriculture and provide our opinion to them, yes, and, whether they will bring legislation, I don’t know.

**Senator McGee:** Do we have a dollar amount as to how much money has been spent trying to prevent Brucellosis by the departments and the Cattlemen’s Association? Mr. Chatburn responded by saying he did not have that number off the top of his head.

**Representative Durst::** Follow-up: In regards to the wild elk being caught within the domestic Cervidae operation, do you feel that disease will be spread as a result of that containment? Mr. Chatburn responded by saying if the wild elk were inside, and there were a disease issue, and they were able to breach the fence by going under or over, they could also sneak out.

**Representative Durst:** The way I picture it is while these fences were being built, because this is located in a natural habitat, there could have been wild animals contained and, therefore, not be able to escape, which of course then creates a co-mingling of the domestic and wild Cervidae.

**Representative Wood:** I’m trying to understand, and it seems like it’s a bit of a reach that the departments can say that it has been established that disease is the problem in the domestic Cervidae. Am I correct? Mr. Unsworth answered by saying he believes that there has not been a disease problem recently. The primary regulated diseases have not shown

up in domestic Cervidae. They do have other diseases and parasites, but it would depend upon the individual producer's herd health plan, which would give an indication whether or not there might be other diseases.

**Senator Little:** Jim, as far as the parasite, the fact that the wild herd moves all the time and might not get reinfected, and because the domestic elk feed off the same meadow all the time can bring the reinfection rate up. Those that migrate have the chance of not becoming infected over again. Mr. Unsworth said that the concern is animals coming from another state and infecting the herd with something that we've never seen before.

**Senator Corder:** Ultimately, every animal kept domestically is tested for CWD, Brucellosis and TB, so what percentage of the elk in Idaho are tested for the regulated diseases? Mr. Chatburn replied the percentage is very small, about 1%.

**Chairman Gannon:** Well, **Senator Schroeder** just passed me a note and I have to agree with him, the hearings have begun! With that in mind, the reason why the four of us requested to meet here today is to get a snapshot of the situation as it relates to the escaped elk. Now, I want to ask if anyone has any questions as it relates to the particular situation as it existed on the farm where the elk escaped?

**Representative Wood:** Had not the Governor required you to go out and execute the plan, would you have extended any assistance at all? Mr. Chatburn answered yes, we would do whatever we could to help our sister agency with the problem.

**Senator Langhorst:** Jim, your mention of the cost in 2006, that was for wild animals contained when fences were put up. What's the figure in dollars for activities surrounding this event? Mr. Chatburn replied that the cost included the round-up.

**Senator Langhorst:** Did you get any communication from the neighbor? Mr. Chatburn said that the only communication they received from the neighbor was when the neighbor got tired of seeing the elk eating in her hayfield. She didn't give any indication that she had contacted the owner prior to contacting the department.

**Chairman Gannon:** Well, it's certainly going to get interesting. Jim, John, I certainly want to thank you for your presentations today. We look forward to your participation as we walk through this process. **Representative Trail** and I are going to start hearings on various R.S.s and proposed legislation early in February. I would encourage if you have proposed legislation, that you do two things: 1) get it in early and 2) make it realistic. Now, do my fellow Chairs have any comments before we close?

**Representative Trail:** Thank you, **Mr. Chairman**, for allowing us to participate with you.

**Representative Stevenson:** **Mr. Chairman**, I know we will be working together on this and we will need realism in terms of what will be proposed,

and it is important that we turn them in early.

**Senator Schroeder:** I just want to thank everyone for coming today and the House and Senate committees and the public for being here.

**Senator Gannon:** I want to thank the secretaries and pages for handling my unusual request of four committees meeting at the same time. I look forward to other meetings that are conducted as professionally as this meeting was today, and with that we are adjourned.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 16, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Kelly**

**MEMBERS ABSENT/  
EXCUSED:** (Please contact committee secretary with any questions regarding attachments given out by committee guests at 208-332-1330)

**MINUTES:** **Chairman Gannon** called the meeting to order at 8:00 A.M.

Celia Gould, Director, Idaho Department of Agriculture, opened the meeting by introducing individuals speaking on these issues: Brucellosis, Domestic Cervidae, Potato Cyst Nematode, Eurasian Water Milfoil, Off-Label Pesticide Application on Onions, Market Development, the CREP program, and the budget.

Dr. Greg Ledbetter Spoke on Brucellosis and the impact it has in Idaho.

**Chairman Gannon:** Are there federal dollars that go into research for Brucellosis and the testing of these animals costing ranchers time as well as money? Dr. Ledbetter answered yes.

**Senator Kelly:** Does the department monitor the domestic Cervidae as well as the wild Cervidae? Dr. Ledbetter answered yes, the department monitors Brucellosis within both domestic and wild Cervidae at slaughter. Domestic Cervidae are to be booster vaccinated.

**Senator McGee:** How are dollars spent within the Idaho Department of Animal Industries? Dr. Ledbetter responded by saying that the Department uses their budget dollars, along with the Department of Fish and Game, to study modified behaviors by using three approaches: 1) ranchers, 2) game and 3) findings from the Department of Agriculture. The Department also has three requirements for Brucellosis testing in the rules: 1) to update the rules on a regular basis for dealer-buyer stations, 2) testing should show one year of negative results and 3) results for tests should be completed and sent to the Department. If these requirements are not fulfilled, farmers will have to resubmit their application to be deemed Brucellosis-free to regain their classification.

**Senator Schroeder:** It's understood that Brucellosis in wild elk seems to be on the rise. Do you think that there is the possibility, through the Department's efforts, that wild and domestic herds can become Brucellosis free? Do you think the Department has the ability and knowledge to rid Idaho elk of the disease completely? Dr. Ledbetter responded by saying that total elimination is probably not possible, but if winter feedings of wild elk stopped, then as wild elk migrate, the possibility

of it would become less and less.

**Chairman Gannon** asked the Committee if there were any questions and there were none.

Mr. Chatburn gave a short presentation of the domestic elk escape issue on the Chief Joseph Elk Ranch in eastern Idaho.

**Chairman Gannon** asked if there are any questions from the Committee?

**Senator Corder:** Are the domestic elk on these farms tagged in any way so that, if they escape, the owners will know which elk belong to them? Mr. Chatburn responded by saying that all domestic elk should have ear tags. Those that escaped should have had ear tags or they may not have been visible to those trying to round up the escaped elk.

**Senator Stennett:** What is the Department's protocol if there is a violation for tagging elk incorrectly? Mr. Chatburn said there were notices of violation sent to the owner of the elk farm. In the case of the past violations, annual verification of the identification has been required.

**Senator Stennett:** How do you check for the possibility of those elk being suspect of the red deer gene, and how can we have the assurance that elk are RDG free? Mr. Chatburn said that all tests for RDG are sent to the only lab available in North America which is in Canada. There is another lab in New Zealand, but the results are not as accurate as the one in Canada. The lab in Canada was sent three samples of blood proteins and out of the three samples sent, two were negative and one was suspect of RDG. Because we don't have a lot of information on RDG, the Department takes a conservative approach and treats it like a disease. If domestic elk are shown to have RDG, they will be destroyed, removed from the state or neutered.

**Senator Stennett:** Who is tracking the results of RDG in the domestic elk population? Mr. Chatburn stated that the Department of Fish and Game require animals that are registered to be tested on a regular basis and those results are sent to the Idaho Department of Agriculture.

**Senator Kelly:** Did the animals that were destroyed meet the department's standards when tested? Mr. Chatburn said that the state of Idaho does not have meat quality testing any longer. The United States Department of Agriculture does all the meat quality testing.

**Senator Schroeder:** If the domestic elk and the wild elk touch nose to nose, is there a chance of passing on TB or any other disease? Does the Department have any policy to prevent this type of transference of disease? Mr. Chatburn said that the Department has no proof or results that disease can be passed from nose to nose contact. Domestic elk and cattle are vaccinated against such diseases as TB.

**Chairman Gannon:** Thank you Mr. Chatburn. If there are no other questions we will move onto our next speaker, Mike Cooper.

Mr. Cooper gave a short overview by explaining that the Potato Cyst Nematode (PCN) attacks the roots of an infested field. The cyst is spread by cultivation. It is essential that public and private entities work together to determine the extent of the infestation and to prevent further spreading of the cyst. The USDA, working with the states, will conduct a national survey to determine the extent of the infestation in the US. Since the initial find of PCN in Idaho in 2006, 30,000 soil samples have been examined. The cyst has been isolated to seven fields in southeastern Idaho. All other samples have been determined not to contain PCN.

**Chairman Gannon:** Are there any questions from the committee?

**Senator Corder:** Have you been able to collect test samples from every potato farm in Idaho? Mr. Cooper commented that most have been tested but some growers do not want testing done on their properties.

**Chairman Gannon:** The detection methods have become so much more advanced now. How do you handle owners that are so reluctant? Mr. Cooper explained that in some instances, search warrants were necessary, and as the testing was done, there were video tapes taken while the samples were taken.

**Senator Heinrich:** How long can the cyst live in the soil? Mr. Cooper explained that the PCN can live in the soil for about 25 years, but crop rotation helps to alleviate the spread and the growth.

**Chairman Gannon:** Thank you, are there any questions? If not, we will move onto our next speaker.

Mr. Voile gave a short overview of the Eurasian Water Milfoil (EWM) problem in Idaho. There is a need for research efforts to develop management techniques for eradication of EWM. Because of the receipt of significant funding for the Water milfoil eradication from the Idaho Legislature in 2006, it was imperative that rapid actions by the ISDA are taken to develop an aquatic weed eradication effort. The program was a monumental effort of agency action and interagency cooperation and was an overall success in meeting its objectives. A statute to establish the ISDA as the lead agency responsible is needed. An earmarked source of funding needs to be identified that will allocate funds to a trust fund.

**Senator Corder:** What are the Department's plans to establish strategies to manage the terrestrial components of the EWM? Mr. Voile responded by saying that threats from the terrestrial components add to the need for early detection. An annual operational plan is in the works and early detection is imperative if weed control is to be successful.

**Senator Schroeder:** How are we going to address the problem with levy ponds being infected with illegal plants? A bill will need to be drawn up so the Idaho Department of Agriculture will add the Parrot Flower to the list of illegal aquatic plants in Idaho. Mr. Voile said yes, Parrot Flower and Milk Oil need to be added to the eradication list in Ada County. The issues with irrigation ditches were not addressed last year but should be added this year.



**Senator Gannon:** Who is selling and buying these plants? Mr. Voile said it appears that illegal plants that come in fresh water species, or as imported plants, to people that buy products in aquarium supply stores. They dump into the water system not knowing the impact. We need a law passed that will prohibit these sites from selling the plants.

**Senator Gannon:** If there are no more questions, we will now hear from Fred Rios.

The Treasure Valley and Malheur County in Oregon produce more storage onions than any other growing region in the United States. Idaho production accounted for nearly 21,400 acres in 2005. Farmers produced over a half billion pounds of onions from this area and we rank third in the nation, just behind Washington and Oregon. In 2006, the EPA investigators were taking samples of onion fields for the use of Furadan. Packer-shippers in Idaho put in place a testing protocol that says they will run a sample from an onion lot to verify the presence or absence of this chemical. There were no samples taken, that exceeded the level for violation.

**Chairman Gannon:** Why are some farmers using Furadan on onions? Mr. Rios answered by saying some growers take the chance and use Furadan because it works so well on their crops.

**Senator Hill:** Why would the farmers risk the quality of their crops when they know there may be a penalty, if found in samples? Mr. Rios remarked that it takes a while for the bug to die and other pesticides don't work as well as Furadan. The percentages of farmers not using Furadan are 80% to 20% of those who choose to use it. To use Furadan, a farmer must be a licensed pesticide dealer. A licensed pesticide dealer is a farmer who distributes any restricted-use pesticide (RUP) or general use pesticide except those exempted in Section 22-3406, Idaho Code, or any pesticide whose uses or distributions are further restricted by the director by rule.

**Chairman Gannon:** Thank you. Are there any questions?

Laura Johnson spoke about the new USDA food pyramid and how it has been transformed into the "My Idaho" food pyramid with Idaho products. Idaho is also a part of the Agriculture Transportation Coalition, and to work on how to get products to market. There is a workshop every year, and on February 20, 2007, ISDA will attend this workshop just prior to the Agriculture Summit that will be devoted strictly to transportation. ISDA has formed an advisory board on agricultural transportation and has had its first meeting in December of 2006. ISDA is hoping to identify some possible solutions to what is a very complex issue.

As agriculture is historically the producer of food, feed and fiber, it can also be the producer of food, feed, fiber and fuel. ISDA has been involved with supporting the 25 x 25 initiative, which is to help secure 25% of our energy from renewable fuels by the year 2025.

**Chairman Gannon** asked the committee if there were any questions.

Chuck Pentzer, with the Soil Conservation Commission, gave an overview of the Conservation Reserve Enhancement Program (CREP). The project was approved in May of 2006 and contracts started in October of 2006. The goal of the program is to retire up to 100,000 acres of irrigated crop land for fifteen years, set aside as a voluntary reduction from groundwater use. These acres are planted to native grassland habitats to enhance the wildlife for that period of time.

The CREP program is different because it's a CRP. It is enhanced with state contributions. The state has agreed to contribute at least 20% of the overall program costs. Part of that includes providing \$3 million for a one time signing incentive payment to the growers. The Department of Water Resources works to verify the ground water rights to insure that those are accurate. We also have three people from the Soil Conservation Program to develop conservation plans with the growers.

There is also another \$5 million set aside to retire water rights. The total overall costs estimated for this project, state and federal, is \$253 million over the next fifteen years.

**Chairman Gannon:** I've heard that people in Mountain Home got knocked out because of the change in erosion standards or something like that?

Mr. Pentzer answered by saying that is part of the program criteria that farm service agencies have with the CRP program. To be eligible, the ground must be in a highly erodible land status. Exclusions to that would be Jerome, Gooding, and Lincoln Counties because they were a higher priority area so you could have a non-highly erodible ground. There may have been some interpretations that those folks may not have had.

**Chairman Gannon:** Why was Elmore County not the same priority as Jerome? For the CRP program, it's the same thing as a higher priority area because they wanted to reduce the ground water usage specifically in those immediate counties to get better results.

**Chairman Gannon:** I've also heard that there is some speculation that they may be holding back to see what happens in the Supreme Court to see if they're going to have any water, and the ruling might create a real stampede. Are you close enough to make that observation?

Mr. Pentzer answered no, we work out of the Jerome office and we are prepared for just about anything that might come our direction. We have seen a number of folks who have withdrawn their application because each month that goes by is one less rental payment received. Some folks are considering putting in another crop and deferring their contract for six months. If they have an offer, they are still protected under whatever ruling may happen.

**Senator Corder:** It's my understanding that there were 10,000 acres that may qualify for the CRP program in Elmore County. The acres that ultimately qualified are less than 1,000. What were those changes that prevented the possibility of achieving, in Idaho, what we would like to achieve with CREP? Mr. Pentzer answered that he thinks what might be

happening is added criteria to qualify for the CREP program. The land must be watered from ground water sources. That has to be verified from the water rights reports and other criteria. The ground must have been watered with its intended beneficial use within the last two years. Many folks may have not watered for five or six years and then may have started watering that ground which threw them out of the eligibility for the program.

**Senator Stennett:** That is a question that we would like you to address, so if the committee needs to write a letter, or whatever we need to do to try and work this out. It's my understanding that once the Supreme Court rules, the water rights would be subject to curtailment, or if someone has an application on your desk, prior to the Supreme Court ruling, are they protected from that curtailment order? Mr. Pentzer said yes, as long as there is an application somewhere in the process, they will be protected.

**Senator Heinrich:** Is there any cooperation with Fish and Game so that these acres that are being reserved are being improved to the highest and best use for our wildlife? Mr. Pentzer answered yes, we are working closely with Fish and Game and they are working with FSA and Pheasants Forever, as well. We work with any producer with a contract offer more than 50 acres in size to see if they're interested.

**Chairman Gannon:** You say Water Resources is making the eligibility determination? Mr. Pentzer responded by saying yes, from the water rights perspective of eligibility.

**Senator Stennett:** What's the typical cutoff priority date for water rights? Does an older water right have a more superior opportunity to get CREP versus a more recent water right? Mr. Pentzer said by the time we get to the end of the program, we do have a prioritization process in place.

**Senator Schroeder:** Chuck, how many acres are we going to get into this program? Mr. Pentzer responded by saying this year, we're not sure how many we will be able to get. We are hopeful to get in about 50,000 acres. But, if the court order comes in and speeds things up, we might be filled up with requests by the end of this year. I might add that this program only runs for this year, because of the end of the 1985 farm bill. If we don't get our maximum this year, we are hopeful that it can be reauthorized in the next farm bill.

**Senator Siddoway:** Can you tell me if there are any counties restricted from participating in the CREP program because they already had too much land whose proposals were rejected? Mr. Pentzer said yes, there were two counties, Bonneville and Bannock. There are a lot of folks that would like to enroll in the CREP program but they can't because of that very reason.

**Chairman Gannon:** Thank you very much. Next is Kelly Nielsen.

Kelly Nielsen explains that the Department of Agriculture manages more than sixty programs. We manage more than thirty funds in our department within nine different divisions. According to the budget breakdown, 23% comes from general funds, 60% from dedicated and

17% from federal. Our use of federal funds has gone up significantly in the last eight years.

The budget enhancements that have been recommended by the governor are Water Milfoil \$4 Million. Noxious Weed projects \$6 Million, planned industries \$1 Million, Agriculture in the Classroom program, secondary containment and state vehicles.

**Senator Stennett:** The committee certainly recognizes the need for money within the state weed control program, but its going to get almost four times the money this year. What is it going to? Mr. Nielsen replies that because he is the person that tracks the funds, he has the staffing ability to allocate it very quickly, but Mr. Voile can do a better job of answering that question. Mr. Boyle responds by saying that there are several options. There is a significant ability to expand current programs. For example, weed management programs have been expanded, and they look forward to long term funding, which has always been coveted by the weed control districts across the state, so that we won't be as susceptible to annual fluctuations of federal funding.

**Chairman Gannon:** I will now turn the **Chair** over to the **Vice Chairman**. As traditional, when someone comes before a committee for Senate confirmation, the Senator from that person's district becomes the floor sponsor.

**Chairman Gannon:** Today, it is my honor and privilege to present to this committee the Governor's appointment of Celia Gould to be the Director of the Idaho Department of Agriculture. I have known Celia for a number of years and she comes from a family that has been around the Buhl area for three generations and very well respected. I think the thing that is most impressive is the resume. You should have a copy of it in front of you. I will just make one statement which typifies the type if person Celia is; upon graduation from high school, Celia requested, as a graduation gift, a set of Idaho code. That just shows how dedicated she is. Another distinguishing relationship, that our families have had, is that my father was of the other political persuasion. At the Thanksgiving table, this makes for some interesting conversation between my father and me, but Celia and my dad had this running banter between them. He did put a banner on his lawn for her, and on that note I will present to you, Celia Gould.

Thank you **Mr. Chairman** and **members of the committee**. I apologize, because I come from across the rotunda, I'm not familiar with the confirmation process in the Senate. I probably should have done my homework a little better and prepared some remarks. You have already been bombarded with so many things from the department that I thought you might not mind if my presentation is short and simple. All of these people looking to me for direction are seeing a person from rural Idaho. I thought, at the last minute, I needed family here so I called my son, J.D., and said I need you to come to the hearing. He is interested in agriculture but he also understands he can't do the things the way my grandfather did things. That's what we are going through and that's what all of agriculture is going through. All I want to say is that this Department will be prepared for the next generation of agriculture in Idaho. I am very proud to be given

the charge of directing that organization. And, just as if I were putting on my old legislator hat again, I ask for your support. I will yield for questions.

**Senator McGee: Senator Corder** and I have sat on the Idaho Preferred Board and, as we compete more and more against other states and other countries, the need for marketing efforts is increasing. What do you think about Idaho Preferred and would you consider making it a priority as a director? Ms. Gould responded by saying Idaho Preferred, and other marketing programs, is a high priority. We have to balance in the Department of Agriculture between regulation and promotion. We can't neglect one side for the other so it's full steam ahead for both sides as we head down that path.

**Senator Corder:** Ms. Gould, you said there were two focuses; regulation and promotion. There was a time when the Department of Agriculture was about those two things. Over the last two years another element has entered that scene, education. The interaction between the department and agriculture has been extraordinary and beneficial. They have taken the approach that rather than walk out there with a regulatory hammer, they walk out with their education hat on and begin to teach people the right way. They don't come with the regulations first or promotion first, but to educate. I'm hopeful that is your focus.

Ms. Gould responded by saying I guess the reason I left that out is because I consider education part of the regulation piece. Education first, and, as a last resort, we regulate. I believe in giving everyone the opportunity to comply and let them know what it is that we are asking of them.

**Senator Kelly:** We have been, for a number of years, struggling with how to regulate the elk farming industry in Idaho. It seems to have come to a head and has gotten a lot of public attention this year. One of my frustrations, as a legislator, is the reluctance of the Department of Agriculture to bring forward recommendations as how to deal with this situation. Please explain what you see the role of the agency is versus the role of the legislature. Ms. Gould begins by saying that maybe this is an area that we may see differently. We will have to walk together and the legislature will need to figure out what you want from us. I see the legislature as setting the policy, as well as the Governor's office. Our agency implements that policy. We certainly plan to help out in every capacity that we can, but I've not gotten the direction from the Governor's office that he wants us to set policy.

**Senator Kelly:** Follow-up: the frustration to me is that we do this job three months out of the year and the agency is out in the field working with the other departments. We are not the experts. I agree that the Legislature has an obligation to provide direction but at the same time it would be so helpful to see more than just responses from the agency. Ms. Gould responded Mr. Chairman and Senator, I see that as something that we are going to have to walk through on an issue by issue basis. This agency will not be out front establishing policy, but we will be there to answer any questions and provide recommendations only if they are asked for.

**Senator Kelly:** One more thing, regarding public records and open government. In recent years, this has become an issue with the Department. What are your thoughts on that issue? Ms. Gould responded by saying she is not an expert on open records and she is not yet an expert as being Director of the Department of Agriculture. She has heard the same things about the closing up of records. At this point in time, everything that we are asked to give as opened records, we have given as open records. I think I know the general area you are speaking of, but when I pursue that information, I have found that access has been given in each instance when asked, and legally, we were allowed to give those records.

**Senator Hill:** Ms. Gould, would you take a few moments and describe what you see as your leadership style? Ms. Gould responded, Thank you **Senator**, that's probably evolved over the last three weeks. I have such tremendous confidence in the people that work at the Department of Agriculture, and, I feel that, if given the right opportunity, they'll do the right thing every time. With that, I guess my style is "The Buck Stops Here!". I take responsibility for what goes on in the Department. If there's a problem, it's my fault. And, I expect these folks to do just what I said, they're going to give you 110%. One thing I told everyone up front is that I don't like bickering, so if we have a problem, we will sit down and discuss it. I think that when you have good people, they need to be given some space to do their job, and they will do their best.

**Senator Schroeder:** We have a problem with Cervidae ranching to the extent that there are some folks that have threatened to circulate a petition to prohibit elk ranching and/or shooter operations. There is also a feeling that if the problems had been addressed a few years ago, we may not be in this position today? Sometime, when we don't enforce the law, it creates bigger problems down the road. Would you care to comment? Ms. Gould responded that the Department will certainly be there to enforce the law. You have a better understanding of what went on with that specific instance than I do. Again, we will be there to assist you in any technical capacity that you ask of us and we will be there to enforce at a moment's notice.

**Senator Stennett:** You are intimately familiar with issues that go on in the Magic Valley and the surrounding areas. One of the counties I represent has recently installed another moratorium to try and grapple with the issue of odors, flies and manure on the roads. On one hand, you are the promoter of the industry and on the other hand, you are the regulator. How do you balance that out? Ms. Gould stated that she doesn't have all the answers to those problems, but I don't see a problem with the county putting a moratorium on a county by county basis and letting the people in those counties decide what they do want as their quality of life.

**Chairman Gannon** returned to his seat and said that he would be letting the members know when the nomination of Ms. Gould would come up for a vote. The committee is adjourned.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 18, 2007

**TIME:** 8:00 AM

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Kelly**

**MEMBERS ABSENT/ EXCUSED:** (Please contact committee secretary with any questions regarding attachments given out by committee guests at 208-332-1330)

**MINUTES:** **Chairman Gannon** called the meeting to order at 8AM.

The first order of business today will be to consider the nomination of Celia Gould to the position of Director of the Department of Agriculture. Chairman Gannon opened discussion to the members of the committee. Vice Chairman Heinrich made a motion to concur with the appointment of Celia Gould as Director. There was a second on the motion by Senator Kelly . There was no discussion. The Chairman then asked for a verbal vote and all members voted aye.

Rich Garber, Director of Industry and Government, College of Agriculture at the University of Idaho gave a presentation about the Idaho Center for Livestock and Environmental Studies project proposal. Bob Naerebout with the Idaho Dairymen's Association and Brent Olmstead with Milk Producers of Idaho will be available for any questions the committee might have. Mr. Garber explained to the Committee that there may be rumors about possible payment to him from the Dairy industry to promote the project. He wants to let all members know that his salary is paid 100% by the university and not by the dairy industry.

There are a number of things driving the need for such a project. Idaho has a nationally recognized animal industry and with the growth of that industry, there are social and environmental challenges that go along with growth. There is a lack of current data to address some of the regulatory issues that go along with the industry. There is also a need for an educated workforce to supply industry needs. The University's College of Agriculture does have a facility on campus but that facility is outdated and is also in the City of Moscow. Also, Moscow has projected the expansion of 8<sup>th</sup> Street to run through the facility, which makes it no longer adequate for their needs. Also, the demographics of the cattle are in southern Idaho, not northern Idaho, and there are statistics on that shortly.

The dairy industry is predominately located in the Treasure Valley, Magic Valley and some in eastern and northern Idaho. The milk production is a growing industry in Idaho. Production over the last ten years has been a 115% increase. In 2004-05 there was a 11-12% increase. Industry



experts tell me that we can expect another 25% growth in the next five years. The number of cows in Idaho has increased in the last ten years and that number is about 470,000. The interesting fact here is that along with that increase comes a decline in the number of dairies to 685 dairies. The number may be down but the size has increased significantly.

The industry cash receipts last year were almost \$1.4 billion. It's the largest single factor in the agricultural economy. Tax revenues were about \$67 million. The industry employs around 9,000 direct employees and when you add in the retail industry, the total employment impact to the state is about 22,000 jobs. In 2005, we added nearly 325 jobs when the employment statistics for the state dropped nearly 7.6%. We also have a significant beef, cattle and calf industry as well. The map gives a concentration of where the animal industries are in the state. That directly relates to our proposal for the center. The economic impact from the cattle and calf industry cash receipts were about \$1.1 billion last year. A smaller segment but very important industry is sheep and lamb. This industry is also growing and increases from 2004-05 were about 9%, receipts were \$23 million. The total animal industry contributions were about \$2.6 billion. This a very significant and growing industry and it does create some research needs. Chairman Gannon joined us last year on a trip to Washington, D.C. visiting federal agencies and we found that we do not have any good data on large western style calf farms. The agencies are setting regulatory policy based on data from the 1960s and before. They really encouraged us to move forward with this project. In terms of research needed that fall into the environmental arena, data needed in air, water and land issues are vitally important, as well as an energy component.

We will also add a teaching component to this proposal. There is a need for trained, educated employees in the dairy industry, and particularly technical training. And, as you well know, the conflict with our urban and rural neighbors regarding odor issues and other things, so it's important to understand the social end of this growing industry and its impact. That's why we would like to create the Center for Livestock and Environmental Studies, involving state agencies, federal industries and private interests. To give you a glimpse of whom some of the partners are, the College of Agriculture and Life Sciences (CALs) have been designated as the project lead. This facility will be University of Idaho owned. We will partner with the College of Southern Idaho particularly in educational training. The Idaho Dairy Association and Milk Producers are certainly lead partners with us. As a state agency, anything we do with this size needs approval from the State Board of Education and we have received their approval. We are here today to talk about the legislature because you are a very important part of this partnership. We have also been talking to the Idaho Cattle Association in Idaho Falls. They are very excited about our proposal and definitely want to partner with us particularly on an energy component. The Natural Resource Conservation Service, ARS, EPA, Idaho State Department of Agriculture and various allied industry groups have all shown a partnership interest in this.

Basically, we would like to try to enhance the quality for the citizens of

Idaho with this project. Our funding partners to date, and hopefully this list will expand over time, are the College of Agriculture and Life Sciences, The United Dairymen of Idaho, College of Southern Idaho, Agriculture Research Service, among other agencies. Also, with the conversations that we are having with the legislature we will encourage you to partner with us on this.

Now, we get down to what a project like this costs. What you see here is a high and low category. The high represents everything we would like to have in this facility, which would be about \$35 million. We realize we don't have those resources to start with, and we have determined what we could live with to get this off the ground. That is about \$25-26 million. We do want to mention the working capital prudent reserve. The dairy industry experiences fluctuations in markets, cost of feed, etc. There will be periods of loss and we have tried to design into the cash projections enough reserve to carry us through those low periods.

The funding we are looking at now is \$10 million from the College of Agricultural and Life Sciences. We are asking the legislature to match that with another \$10 million and the dairymen and industry has committed up to \$5 million. The land and the center will be owned by the University of Idaho. We anticipate leasing it out to a nonprofit organization to operate and manage. There will be a research and teaching center that would be used by the University of Idaho and College of Southern Idaho and other agencies as they have need. The center will be managed by a board of directors and they will hire a COO to oversee operations. There are two significant parts of this operation: 1) the dairy operations and 2) research and teaching component.

There is a site committee that, over the last few months, has looked at various potential sites, and has identified property that we feel would be ideal for this operation. The site map shows significant lab space, office space and classroom space for educational activities. The power point slide series shows the different parts of the site and the overall design of what we anticipate. The College of Southern Idaho will be partnering with us mostly in technical training. They will operate a shop that will do the maintenance and repair for the industry that will be a part of their teaching program. We have put together a complete business plan for this project. I am open to any questions you may have.

**Senator Kelly:** The University of Idaho builds it and owns it, then turns around and leases it to a non profit organization who, in turn, pays fees back to use the facility. I'm trying to understand the money trail. Why is it set up that way? Mr. Garber answered by saying that there are a number of reasons why we have been advised that this is the appropriate way to design this project. One problem is that we have certain human resource and regulatory obligations to meet that just don't work with industry. Dairies operate 24 hours a day and when we have to start complying with requirements of an agency, it becomes costly, as much as \$1 million a year more. That's one reason why we have to spin this off to a non profit. All the profits would go back into either improvements or research projects.

**Chairman Gannon:** This will be a self-supporting dairy. The point Rich is making about the non profit end of it is that the University of Idaho couldn't run it efficiently. There are so many regulations that don't fit in the non government sector. I think that is an important point to realize.

**Senator Kelly,** I know you come from the legal side of this, and I assure you that our legal counsel has encouraged us to move in this direction.

**Senator Kelly:** Follow-up: Is there some other facility in Idaho that works under this non profit under the University? Mr. Garber said that in some ways this is a unique proposal and he couldn't point to an exact facility that is designed like this.

**Senator Hill:** Mr. Garber, you talked about having two components, the research and education facility and then the dairy itself. I'm trying to figure out if we are competing with the private sector here in any way. And, if so, what benefits would go to that private sector. We are dumping milk from fifteen hundred cows onto the market. We are competing for the cost of feed and livestock and so on. Why do you need such a large facility to make this work? Mr. Naerebout said that from the beginning we were told this has to be a self-sustaining dairy. We can't come back and ask for more dollars. The next question is odor. The industry requests that it is a large enough one so that the researchers are put in the same position as those in the workplace, with all the environmental issues. As far as the industry is concerned, we are not as concerned with the impact issues as we are about the tools to address the socioeconomic impact issues that are created.

**Senator Hill:** Follow-up: Mr. Olmstead, have you talked to your members about this because I am getting responses and concerns expressed by some of your members about the state competing in this private industry. What feedback are you getting? We fully support this facility, and as Mr. Naerebout said, the impact of fifteen hundred more cows on the market is almost negligible. There will be contracts with area farmers for feed and other things. It's part of doing the research in a real world situation. Our organization wholly endorses this project and his organization represents all the dairies throughout the state and has unanimous support for this operation. We are being regulated on a federal scale and there is no science to back up what they want. We need this information to help the industry in regards to regulations and it will help local areas of government in how to create an ordinance.

**Senator Corder:** I want to follow up with what Senator Hill said. It would appear that there might be a criticism here from the small dairies about the program. Any dairy that is less than the viable number of fifteen hundred cows, might conclude that they won't survive. I don't know if you can respond to that. Mr. Naerebout explained that the make-up of the board comprises eighteen members and the smallest dairy represented has 40 cows. Half those board members milk less than 200 cows. They look at this and say this is what we need. The board is unanimous that this is the direction that is needed.

**Senator Siddoway:** I have talked to two of the larger producers in my

district and they are also concerned about the competition that might be created by this project. I understand that the facility will receive their cows by donation from the industry, which creates the question that the quality of the product that comes out after the research is done may be inferior. If the sheep ranchers ran their operations like the University's research station, they would have gone broke long ago. I'm wondering if we might be creating a black hole to dump money in and possibly squeezing other livestock research right out of the picture. Mr. Olmstead responded by saying that from our perspective, we are also concerned about the black hole and we have done a risk analysis along with a business plan that spins out 27 different scenarios based on high, medium and low milk prices, input costs, feed costs and production levels. I think we know quite accurately what the risks are and we have built in contingencies to handle this. We know that we cannot sustain this unless it's viable on its own merit. This whole product is solely for research and the last thing we want to do is damage research for agriculture. To make this work, research has to have a "real world" operation and the consultants we have been working with are very familiar with private operations all around the country. Employment is another area of research that is needed for workforce development, and the College of Southern Idaho is very excited about their possibilities of being a part of this operation. We will find employees just like any other operation in the state. Some of the work will be done by students, but the majority of the work will be done by employees of the operation.

Mr. Naerebout added that the industry has hired a consultant to start doing a survey on a fundraising campaign outside the dairy producers to draw dollars. We have invested somewhere between \$150-250,000 to help the project. It's nothing new for researchers to make sure and get the project paid for, and one of the advantages of having ARS involved is that they contribute the dollars for the research projects. They contribute around \$500,000 to \$1 million per researcher per year, and that bill will be coming to the table. There were around six dairymen that have spent an estimate of \$7 million of failed projects trying to eliminate odor. That's why we, as an industry and, as a society, need this type of facility.

**Senator Stennett:** Follow-up: Regarding the donation of cows, who's going to determine the viability and value of cows or will that fall in Idaho's education tax credit? Mr. Garber said he can't answer the tax credit question, but in regards to the cow question; there will be a C.O.O. and they would be responsible for the operation of the dairy. We have considered bringing the cows in fazes of different ages, some young cows and some older cows. They would probably be purchased off the market and not buying out someone's operation. The dairy industry's contribution to the facility is supplying the cows either in donation or in contribution.

**Senator Stennett:** Follow-up: And again, the question of the \$500 tax credit for education purposes would apply in this instance?

**Chairman Gannon:** I don't think anyone has even looked at that issue. I would have one concern; did you see the headlines in the Times News yesterday? We may have a zoning test case going on in the county that

you are targeting. We are going to have to get through the planning and zoning process and based upon the information in the paper yesterday, there are people that do not want dairies in the state of Idaho. They are going to do everything they can to keep this project from happening, and planning and zoning is a good place to start. I would encourage you, before much money is put into the purchase, that the purchase of the site is contingent upon the siting approval of the research facility.

**Senator Siddoway:** Could you tell me how many acres you will need in this equation and if the dairy industry is going to donate the cows, will they be donating their very best cows or a cross-section of breeds across the state?

Mr. Garber said it's my anticipation that we will have some kind of screening process before we accept these cows. On land questions, we are advised to have a minimum of 1000 acres to make this operational. We would have to contract additional acres to take care of our waste issues. In terms of the footprint of the center, we are figuring around 80 acres.

**Senator Siddoway:** Follow-up: \$5 million for 1000 acres seems like a lot of money. I thought most farm ground in the state of Idaho is around \$1800 to \$3000 an acre. Mr. Garber said \$5 million is an educated guess. The state will not allow us to stray too far from appraised value but we wanted to make sure to build in enough funds to purchase the maximum amount of land possible to make this operational. I would like to think that the \$5 million is too much but I am aware that land values have gone up and I would guess we are probably in the ball park.

**Chairman Gannon:** I have been a part of this project early on, and I can say that, as the government moves, this is certainly fast track and I commend you for your excellent work. Thank you, and now we will start with the rules. Senator Heinrich will be the Chair for the rule hearing.

**Vice Chairman Heinrich:** Mr. Cooper, we will start with you. Docket No. 02-0209-0501. Rules Requiring the Inspection of Potatoes Intended for Sale or Offered for Sale in Retail Outlets

Mr. Cooper: This rule was put into place by the potato industry. In Idaho there is a federal state marketing order for the grading of potatoes for sale. This insures a high quality product for sale. This rule levels the field for those potatoes that come in from out of state. There has been some housekeeping needed in this rule and those required sections, such as title and address, were added. Also, there was certification paperwork that was needed from the grower by the inspector. In 2004 in Oregon, there was some discussion at a meeting about the Potato Tuber Worm found in Washington. We then talked to some of the University potato officials and found out that it was worse than first believed. They then decided to put out some traps to see if it had worked its way into Idaho. At the same time, the industry was hearing about the same problem. There was a positive moth caught in a trap in the Parma area and industry became concerned about how the moth found its way to Idaho when it

was shown to be in Oregon and Washington only. Director Takasugi called his counterparts in Washington and Oregon to see what the situation was.

To our dismay, their Department of Agriculture had no idea there was a problem. We finally had to go to the Washington Potato Commission to see what the problem was. It was that research department that was doing all the trapping and surveying in the Columbia basin. Since this rule was already in place, in addition to the marketing orders, we required that when the inspections were done for the table stock, we also want them to look for other pests. This grabbed their attention really quick and we actually had a three-state meeting and extracted some assurances out of Washington and Oregon to take this situation seriously. We also put together some best-management processes for growers and handlers and how to dispose of cull potatoes. After these talks were over, we decided to back down to just the Potato Tuber Worm and the Potato Wart as two readily discernible visual pests.

**Senator Siddoway:** Is the Bacterial Ring Rot the same as the Corky Ring Spot? Mr. Cooper said that Corky Ring Spot may be a fungus. The bacterial Ring Rot, if found in a field, will cause the field to stay out of production for a year.

**Vice Chair Heinrich:** Mr. Cooper, was there input from the fresh packers in the development of this? Mr. Cooper said that is correct, in fact, it was at their insistence.

**Senator McGee:** Mr. Cooper, did anyone testify against this rule? Mr. Cooper said, regarding Docket No. 02-0602-0601, not to my knowledge, but we do have people in Washington that aren't too happy with it.

**Vice Chairman Heinrich:** If there are no other questions, then let's proceed to the next docket.

Docket No. 02-0602-0601 Idaho Commercial Feed Law  
Updating the 2006 version to the 2007 version.

**Vice Chairman Heinrich:** The committee had no questions.

Docket No. 02-0602-0602 Idaho Commercial Feed Law, Viable Noxious Weed.

Mr. Cooper said the feed law makes the presence of a noxious weed, which means it is feed adulterated. Last year there was a large number of bird seed that was contaminated by almost every manufacturer we have. We stopped sale of a large number of products. We started quite a stir in the bird industry and they worked really hard to clean up their act.

Another change in the rules is on page 77 where we have incorporated the American Association of Feed Control Officials' pet standards into the rule. We've been using the manual as a reference for this but the industry is getting so competitive and there are so many products that we felt we

needed to get it into the rules. They are quite extensive and we need to make that manual more accessible to the public. The pet food industry is very competitive and, if someone tries to make a change to get an edge over someone else, we need detailed rules to control what their labels say or don't say.

**Senator Corder:** Mr. Cooper, does the process for companies, that choose to import seeds into Idaho, involve submitting seed samples? Mr. Cooper said that the companies have to register the product under a label and then, as part of the regulatory process, we go out and randomly sample that product. We also send a portion of the sample over to our seed lab to analyze for any weed issues.

**Senator Corder:** What percentage of the seed sold in Idaho is verified? Mr. Cooper said he doesn't have the figures available, but in the winter they will take a random sample across the state and if they find that the lot is infested, they will stop sale of the entire lot.

**Senator Corder:** Follow-up: Feeds that are put together in the state and are sold to neighbors and friends, are those feeds subject to evaluation? There may be no requirements but there may be noxious weeds in some feeds being sold. Mr. Cooper said that they have stopped sales from locally made scratch grains on numerous occasions. It depends upon the product.

**Senator Gannon:** There is a whole section here on flavor labeling. I'm wondering if the flavor labeling is accurate as to the flavor in the feed? Ann Brueck, program specialist for the Department said that if there is a claim for flavor, review of all ingredients on the label is necessary and confirmation is done of the appropriate ingredient for the flavor.

Docket No. 02-0606-0501 Rules Governing the Planting of Beans.

This is a temporary rule, as of 2006, allowing more sprinkler irrigation. To allow for second generation planting of beans under a sprinkler followed by testing requirements.

**Vice Chair Heinrich:** If there are no questions, we will proceed to the docket on the next page.

Docket No. 02-0610-0601 Rules Governing Potato Cyst Nematode.

This is a new temporary rule, paralleling the federal order that establishes the Potato Cyst Nematode regulated in areas near Shelley. It was the imposition of this rule that would have listed Idaho as a quarantine state and Shelley as a regulated area. By having this parallel rule in place, it determines who the inspectors are, what the regulated articles are and how they can move. To move potatoes from infested fields, they had to be permitted and determined to what facility they will be going. Also, equipment used on infested ground has to be cleaned of any soil before leaving the area.

**Vice Chair Heinrich:** If there are no questions we will go to the next docket.

Docket No. 02-0612-0601 Idaho Commercial Fertilizer Laws.

This is an incorporation by reference update adopting the 2007 version. The only change is 2006 to 2007.

**Vice Chair Heinrich:** Next docket on the next page.

Docket No. 02-0641-0601 Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001

This is just an update to 2007, and the only change is striking six and adding seven.

**Vice Chair Heinrich:** Thank you Mr. Cooper. Next docket please.

Docket No. 02-0104-0601 Rules Governing the Idaho Preferred Promotion Program.

Ms. Clark: The Idaho Preferred Promotion Program is managed by the state Department of Agriculture to identify and promote the quality, diversity and availability of Idaho food and agricultural products. There are two changes; 1) the TM next to Preferred will now be an R with a circle; 2) prior approval to use the logo on any kind of packaging or promotional materials.

**Vice Chair Heinrich:** Ms. Clark, there are no questions. Mr. Schaffer.

Docket No. 02-0214-0601 Rules for Weights and Measures.

Mr. Schafer: This is to adopt the 2006 edition, the National Institute of Standards and Technology Handbook 44, specifications, tolerances and other technical requirements for weighing and measuring devices.

**Vice Chairman Heinrich:** Thank you Mr. Schafer.

Docket No. 02-0622-0601 Noxious Weed Rules

Mr. Voile: The major areas of change are in Early Detection Rapid Response list and a definition has been added; also Implements of Husbandry. Also, please take note of the old Idaho noxious weed list. You will now see the new proposal of 58 noxious weeds on three separate lists. The control list is made up primarily of 36 species with a few new additions and these species are already being controlled but were not on the noxious weed list. Controlled, meaning controlling those species to a localized area and in some site specific cases, eradicate them from the state. The containment list comprises weeds that are known to occur throughout the state, quite severe in some cases but not so severe in other areas. This rule gives the local control authority the ability to be superintendents to raise the priority level of the weeds on



these lists so they can be addressed.

In regards to page 106, section a, to the articles capable of disseminating noxious weeds, we have changed farm machinery to implements of husbandry, and in e, we have added nursery stock including plant material propagated for the support of aquarium, pet or horticultural activities, and that is to address the very aggressive aquatic plants that are being offered for sale in Idaho and across the nation. On j, we have added mulch to soil, sand and gravel, and k is a new one, the water section of the noxious weed law, boats, personal water craft, water craft trailers and items of a similar nature. On page 106, we have updated the penalties for violations to reflect the law changes that were made last year.

**Senator Schroeder:** You have Parrot Feather Milfoil listed on the Noxious Weeds list and the effect of adopting these rules will end up being sold, right? Mr. Voile answered yes.

**Vice Chair Heinrich:** The changing of three different sections here has no effect whatsoever on what counties can adopt through their process as to their list of weeds? Mr. Voile said yes, the list as it reflects the counties primarily has to do with the ability for me to provide cost share funding to them and the legality of expending those funds on non listed species of noxious weeds. The counties can have whatever they want on their lists but they wouldn't be able to expend general fund dollars on them.

**Vice Chair Heinrich:** Thank you Mr. Voile, Mr. Safford.

Docket No. 02-0631-0601 Idaho Department of Agriculture Noxious Weed Free Forage and Straw Certification Rules.

Mr. Safford: For those unfamiliar, this program is commonly known as the weed-free hay program. The Idaho Department of Agriculture operates this program because the forest service has a requirement called a "hay closure" on their land that if you possess straw or hay, it has to be certified as noxious weed free. The purpose of this program is to prevent the spread of noxious weeds on their property. This program is voluntary. Producers participate because they can gain a higher price for certified weed free hay than non certified weed free hay. The Idaho Department of Agriculture is a member of a voluntary national organization called the North American Wheat Management Association (NAWMA). They have a standardized forage certification program. Incorporating the NAWMA standards into the weed-free hay rule is a major part of this pending fee rule. The pending fee rules are a result of input from producers, county weed superintendents, the forest service and ISDA staff. The changes are as follows: The rules were amended in 2000. These rules need to be updated to reflect changes since 2000. Between pages five and seven, five definitions were added or amended. On page 6, we had a housekeeping item, and added three definitions to incorporate the NAWMA standards with the Idaho rule. On pages seven and nine, an abbreviation was added to define the NAWMA standards by including the certification training for field inspection procedures.

**Senator Stennett:** Mr. Safford, page 6, item twenty, using the blue and orange colored twine; what's the penalty for using it if you're not certified? Mr. Safford answered by saying that there is a penalty for using the twine if not certified. On page 12, Section 100.14, Enforcement and Cancellation; Evidence that forage, straw, straw cubes/pellets, or compressed forage bales are not from a certified field or that any lot has not been protected from contamination shall be cause for cancellation of certification. Also, Section 100.13 of page 12; Cancellation for Failure to Comply; Any person who provides false information on an application for inspection or who fails to comply with the post certification and distribution requirements may, upon order of the director, be suspended for a period of up to two (2) years from participating in the forage and straw certification program.

**Senator Stennett:** Follow-up: Is the colored twine that inspectors look for available broadly or is it only available through the department? There is no penalty, it seems, for someone who is not certified who just wants to take advantage of the increased value of the product. Mr. Safford stated that the blue/orange twine is only distributed to agencies who participate.

Continuing on, page 10, we have deleted portions that are not scientifically sound and not approved by NAWMA. Post harvest bale inspections and also post harvest cube inspections and because we deleted, on page 5, the definition of the bale certification inspection. On page 11 and 12, we upgraded distribution requirements. We now require tagging certified products by leading producers prior to leaving the stack yard or facility, page twelve; the inspection fees are slightly decreased for larger fields to be inspected. Page 14 and 15, we defined the criteria for the four types of certification marking.

**Senator Corder:** I was curious about the forage cubes/pellets and those things. I notice that they may come from out of state and I see that there is a procedure to make application, but how do we verify the products and weed-free status? Mr. Safford answered that the hay closure has been written for region one that pellets are exempt. The whole idea of NAWMA is that we all follow the same standards. Montana and Wyoming are members and if the hay cubes come from either of those states, the forest service will be able to recognize their certification with the sticker process.

**Vice Chair Heinrich:** Thank you, Ms. Misner is next.

Docket No. 02-0633-0601; Pending Fee Rule for Organic Food Products Rule.

Ms. Misner: Organic foods are grown using management practices to build soil health and to limit disease and test problems. The changes include updating the incorporation by reference to reflect the changes to seven CFR, part 205, the National Organic Program, which was updated January of 2006. See page 17 for the complete summary. On page 20, we have added definitions to clarify Agent, Certification and Educational Activity. Page 22 we have a change in Requirements, Deadlines and

Fees. In reviewing the rules, the difference in registration and certification was unclear and cumbersome. We separated the registration requirements from the certification requirements. See 300.01a, b, c and d. On page 25, we have increased inspection fees to better reflect the cost to the department for inspections. This fee has not been increased since 1993. On page 26, we put a cap on the graduated gross sales fee table of \$5,000. In order to maintain the integrity of the organic program, the advisory council recommends that the registration and certification fees be increased to make the organic program self-sustainable and affordable from the smallest to the largest organic producer and handler.

**Vice Chair Heinrich:** Thank you, Mr. Voile.

**Senator Corder:** Representative Bolz and I were talking about a question in the Noxious Weed rule. Were you able to speak with him about that question? Mr. Voile said yes, Representative Bolz's concern was in the old Noxious Weed Rule and Law, under Articles of Dissemination, the definition of farm machinery that farm to market semi trucks could be considered Articles of Dissemination under Farm Implements. If you go to the definition of Implements of Husbandry, you will notice that those implements that are for highway use excludes the movement of an agricultural product.

**Vice Chair Heinrich:** I will hold all these rules until we complete the total rules. We will then take action on all of them. Vice Chairman Heinrich then returned the meeting to Chairman Gannon.

**Chairman Gannon:** Are there any other questions or issues? If not, the meeting is adjourned at 10:35 AM.

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Senator Tom Gannon

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Connie E Bosserman, Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 23, 2007

**TIME:** 8:00 a.m.

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Kelly**

(Please contact committee secretary with any questions regarding attachments given out by committee guests at 208-332-1330)

**MINUTES:** **Chairman Gannon** called the meeting to order at 8:00 A.M. Rick Waitley, Executive Director of the Food Producers of Idaho, had a group of students visiting the committee hearing from the University of Idaho Public Policy tour. **Chairman Gannon** welcomed the students.

**Chairman Gannon** introduced Dr. Phil Mamer of the Department of Fish and Game to speak about the elk in Idaho. Dr. Mamer began by giving an update on the hunter sample Brucellosis survey used to check the elk for the disease. Dr. Mamer used the power point presentation to show the committee where the disease was last found. After the herd was found infected, Dr. Mamer and Mr. Unsworth decided to restart the task force. They then called the Cattlemen's Association, Farm Bureau and Idaho Department of Agriculture and started working through the 1998 task force report to see if they had met those recommendations and goals. One goal was to maintain the Brucellosis-free status, which they lost. They also looked at the disease prevention strategies, stopped the winter elk feeding and adhered to the winter feeding policy for big game. The task force also decided to seek funding for inter-agency involvement to solve the Brucellosis problem. The 2006 workgroup then submitted an annual report to the Governor regarding what the state was doing as far as wildlife Brucellosis. They then developed their own set of goals to update and develop site-specific management plans to help regain the Brucellosis-free status.

**Chairman Gannon:** Do you consider a problem elk an elk that has adapted a pattern or is suspected of a disease? Dr. Mamer said that elk or cattle that come to a feed ground increases the prevalence of disease on that feed ground, which is then considered a problem elk.

The plan was sent to then Governor Risch and signed off by the Directors of Fish and Game, Agriculture and the Director of Farm Bureau. The elk hunter Brucellosis kits were sent out to the hunters and samples were sent back. From those samples, a Brucellosis positive list has been created. There was a large number of kits sent out in 2006 but those

results have not been finalized yet. At this point, as far as we know, the disease had not moved out of eastern Idaho.

**Senator Schroeder:** In the areas where kill permits are being issued, would you discuss the availability of winter range and how large a depopulation of the elk herd might occur in that area.? Dr. Mamer stated that kill permits are not a form of depopulation. They are only issued to farmers that have problems with elk coming onto their feedlots or mixing with their cattle. We want the elk to continue with their migratory routes.

**Senator Schroeder:** Follow-up: Can we assume that housing tracts may impact the migratory process negatively long term because the winter range is being used for development? Dr. Mamer commented that changes are happening in some parts of eastern Idaho. There are other programs to provide winter range for elk but it's certainly a choice society is going to have to make in that part of the state.

**Senator Siddoway:** Could you tell us how much testing has been done, how much Brucellosis was in the Yellowstone herd and how many elk were sent to slaughter? Dr. Mamer said he could not give an exact number but 100+ elk have come to Idaho for slaughter. He's not sure of the exact number that were culture positive but they are trapping on the feed ground in Wyoming as we speak.

**Senator Siddoway:** Can you tell us how many animals were sent to slaughter since your work started and was every animal that was tested positive sent to slaughter in the state of Idaho? Since 1998, we have been trapping and all females that tested positive on the field tests have been sent to slaughter. Some don't test positive at the shoot, but more than half have tested culture positive. Bulls are released even if they test positive at the site. As far as they know, there is no way for the bulls to transmit the disease.

**Vice Chairman Heinrich:** There have been several recommendations made to improve performance and some have been implemented. Will you be making further recommendations to improve the program performance? Dr. Mamer stated that the plan is not black and white, but one of the recommendations is to reevaluate the plan each year, so we can't say that we will continue with the same plan for ten years. It will be reevaluated after the winter and after the trapping and testing programs are completed.

**Senator Corder:** Would you give us your perspective of your relationship with both Department of Fish and Game and Department of Agriculture? And, would you give us your perspective with regards to game farms; are we going the right direction? Dr. Mamer said that the Brucellosis task force had helped and the way the Departments of Fish and Game and Agriculture work together in eastern Idaho is very good. Brucellosis is a big problem in that area and that has forced us to work together to solve these issues.

**Senator Siddoway:** Dr. Mamer, are you getting any feedback from the local ranchers of the Rain Creek or Kona Creek area as to how to keep

their feedlots secure from wild elk? Dr. Mamer: Our goal is to maintain separation of elk and cattle in the wintertime but it is a program that we have worked out on a case-by-case basis. It is a process of a range depending upon each rancher and their operation.

**Senator Schroeder:** Is the infective herd a danger to elk in other regions of the state or are there natural barriers that will prevent the disease from the Yellowstone area showing up in Clearwater? Dr. Mamer said that if people don't feed elk, disease will not be an issue. It is mostly concentrated on the feed grounds where wild elk congregate.

**Chairman Gannon:** What percentage of the herds in eastern Idaho would you say are infected? Dr. Mamer said that it depends upon how close they are to the feed ground. Generally, the percentage would be around 3% until they get to the feed ground.

**Chairman Gannon:** There was a rumor going around years ago that the Department of Fish and Game was not sufficiently feeding the elk and there were others trying to feed them. Was that in Boise County or eastern Idaho? Dr. Mamer said it was in Boise County.

**Chairman Gannon:** And that herd is Brucellosis free, right? Dr. Mamer said it is free of Brucellosis as far as they know. Thank you Dr. Mamer and now the gavel is given to Vice Chairman Heinrich.

**Chairman Gannon:** Thank you for coming, Dr. Mamer. And now **Vice Chair Heinrich** will discuss the Rules:

**Vice Chair Heinrich:** Mr. Hayhurst, you are next.

### **Docket No. 11-0201-0502 Rules Governing the Idaho State Brands Board**

This rule change raises the brand inspection fee from \$.84 to \$.94 and pasture cattle fee from \$.42 to \$.47. The Idaho Brand Board fee increase in 2005 was insufficient to meet Brand Board costs. The pending rule is being adopted as proposed in the following fee summary as of December 7, 2005. The following is a description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 25-1160(a) Idaho Code. Increase cattle brand inspection fee \$.10 and cattle pasture fee \$.05. Pursuant to Section 67-5224(5)©, Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rule-making.

**Senator Hill:** The department is run very well. Has the Board ever looked at other ways of imposing fees, like miles traveled or one fee for the first ten animals and then a lower fee after that? Mr. Hayhurst said that they have looked at various options but the industry wants to be fair. The producers work hard for their money and they pay all their own fees. The board doesn't want to charge for everything and they want to be there when needed the most.

**Chairman Gannon:** Do you see a change in your business regarding animal tracking? Mr. Hayhurst said that it will be changing, but at this point, the Brucellosis tag is a great program and he would like to see it mandatory. We have the greatest cattle in the world but the worst I.D. to track disease. The brand never changes but it cannot be removed. We need to work together to figure out the best way to track our cattle.

**Chairman Gannon:** Are the receiving stations collecting cattle to take to market for slaughter? Mr. Hayhurst said that the receiving stations were originally designed to take cattle to slaughter. ISDA is trying really hard to clean up a lot of the issues but there is no slaughter house available in Idaho now that Armor has left so the producers are forced into sending their cows out of state. There are also some regulatory issues that need to be solved and we are working closely with ISDA on those issues.

**Senator Stennett:** What precipitated the idea that receiving stations need to be monitored? Mr. Hayhurst said that the stations need regulation. The commission companies have rules and regulations that they have to comply with. I don't know if you can regulate them but they are in real competition with the sale yards. It's my job to make sure they get their brand inspections but regulations would be very helpful, in my opinion.

**Senator Schroeder:** With respect to the receiving stations, will you expand on what you think these stations are doing? Mr. Hayhurst said some will try to dodge the laws more than others. There are also questions about feeding and watering operations. The commission companies that have charters are regulated and are used as a comparison to the receiving stations. The stations don't have a vet and there is nothing to keep them from buying a non vaccinated animal and putting it back in the field. We can prove that has happened. I can only trade the information with ISDA, unless we can regulate them. Nobody needs to be over regulated but there are some instances where it is needed.

**Senator McGee:** I move that the committee accept Rule No. 11-0201-0502.

**Vice Chairman Heinrich:** Motion: **Senator McGee** made a motion to accept Rule No. 11-0201-0502 and **Senator Hill** seconded the motion. Voice vote is unanimous. Motion carried.

### **Docket No. 48-0101-0601 Rules of the Idaho Grape Growers and Wine Producers Commission**

Mr. Bitner, Acting Director of the Grape Growers and Wine Producers Commission: In 2002 there were 14 wineries and about 900 acres of producing wine grapes. In 2006, there were 32 permits for wineries issued throughout the state and the acreage had more than doubled. The economic survey in 2002 showed about \$44 Million impact on the state. Most of that is tourist dollars flowing into the areas with more than 50% coming into Canyon County. We have applied for an American Viticulture Area Designation. We have to show why our area is unique to



have that designation on the bottles. It's a marketing tool but it also shows that we are very serious about wine production. Our appellation has been accepted and will be in the federal register some time this spring. We will be known as the Snake River Valley Appellation. This is really giving us national recognition around the states with national competitions around the country and we are winning awards regularly. We also have two researchers that have come to our area, one being a food scientist looking at the heart-healthy compounds that are found in red wines. Those compounds are found at their highest levels in high desert vineyards throughout the world and Idaho has one of the highest altitude vineyards in the world. We are always concerned about alcohol consumption but we consider wine food and have an appreciation of wine.

**Senator Corder:** We are adding a new section. Mr. Stevenson, for a temporary rule, should the additions be underlined?

Mr. Stevenson: I believe this is a brand new chapter. You would have no new scoring in a new chapter.

**Senator McGee:** Mr. Bitner, I am quite impressed with the vintners across the state and what they have done in a very short period of time. This organization has very aggressively marketed and promoted Idaho wines. Mr. Bitner is a constituent of mine, and I have seen first hand what has taken place in Caldwell and the Sunny Slope area and I would urge the committee to accept this ruling.

**Senator Hill:** Mr. Bitner, if this is a new chapter and a new tax, how has the commission been financed before this? Mr. Bitner said the commission has been financed through taxation of vineyards and wineries.

**Senator Kelly:** You don't have any other rules except this one? Mr. Bitner said yes, that's all we have. We are trying to get our house in order.

**Senator Schroeder:** I have wineries in my district. Do all the wineries agree to this rule? Mr. Bitner said that because they are a statewide organization, they try to work with all the wineries.

**Vice Chairman Heinrich:** Mr. Bitner, what is your estimated total revenue of this commission? Mr. Bitner replied it is probably in the area of twenty thousand dollars. We are looking at raising that amount as more wineries join the commission. There are more marketing dollars needed as well.

**Senator Siddoway:** Is the tax added in or do you pay on one or the other? And what is this tax used for? Mr. Bitner stated that he has fifteen acres of wine grapes and he pays five dollars an acre. He also has his own wine tasting room and he pays one hundred dollars for it. There is a three hundred-dollar maximum for each winery. Fifty percent goes to the administrative end for a full time executive director. That also includes the accounting fees. The other seventy thousand dollars is split between

research dollars and marketing. Marketing takes about 75% and the commission is looking for ways to increase the income.

**Chairman Gannon:** Are you in the Idaho Preferred program? Mr. Bitner replied that he is on the advisory board for the Idaho Preferred program.

**Senator McGee:** I move the committee accept Docket No. 48-0101-0601.

**Vice Chairman Heinrich:** Senator Siddoway seconded the motion. It was moved and seconded to approve Docket No. 48-0101-0601. Motion carried. **Mr. Chairman,** we have completed the rules for today.

**Chairman Gannon:** For the next committee meeting, **Vice Chairman Heinrich** will again be the Chairman of the committee, as I will be in Washington, D.C. Also, today we will be doing something unusual for a committee. We will have a discussion about the life science facility and try and answer any questions there might be about this proposal. There will be no public input, no comments from the University of Idaho, Department of Agriculture or anyone who might come by. I would like to recess this committee until the hour of 10:00 A.M. We will come back at 10:00 A.M., have that discussion and then develop our list of questions. I then will work on whatever is appropriate to take before the JFAC committee. We will now recess to the hour of 10:00 A.M.

**Chairman Gannon** called the meeting back to order at 10:00 A.M. Following the presentation the other day by the University of Idaho regarding the life science facility, I was approached by a couple of Senators that asked if that is all there is or will there be another opportunity to discuss this further. I assured them that I will not cut off the discussion until everyone is satisfied that they have all their questions answered. This is not an agenda item so there will be no public input today, although we may have the appropriate people in the room to answer the questions, they will not be given the chance to answer today.

We will put the answers on the table and determine where we want to get the answers from and then I will schedule hearings accordingly. I heard two themes the other day. One was the risk factor associated with the price of milk and the investment the state would be making in this operation. The other theme was that some in the dairy industry feel like this would be unfair competition and the University would be in competition with the dairy industry because they would be selling milk into the open market. I would like to get your questions on the table and then we will try to figure out where we can best get those answers to those questions.

**Senator Schroeder:** Industry is going to donate cows to this operation. I need further clarification as to how the quality of the initial stock will be controlled.

**Senator Gannon:** So, the question would be how will the quality of the initial stock be controlled?

**Senator Hill:** I would like more analysis from an economic standpoint. We were talking about \$10 Million from the University and \$10 Million from the general fund of the state and \$5 Million from private sources and other associations. That is \$20 Million from the state, one way or another. Why is this a high priority to spend the public funds for this when there are so many other existing programs that are neglected? Is the \$10 Million from dedicated funds or federal grants? I would like to understand that process.

**Chairman Gannon:** So your question is why are we spending public funds at this level for this project compared to the other projects that are in need of funds?

**Senator Kelly:** My questions are about the legal setup in terms of the state giving the \$10 Million and the \$10 Million from the University of Idaho. We are not quite sure exactly where that money is coming from but they are also talking about putting the operation into a nonprofit organization. I also would like to know who is making the decisions in this process as well.

**Chairman Gannon:** You have two questions then, 1) the legal arrangement between the university and the nonprofit and 2) the profitability would get into the risk analysis.

**Senator Stennett:** I would like to have follow-up with the governance questions about putting \$20 Million in the project and then relinquishing control as well as where the University is coming up with the \$10 Million. I also think that this would cost the state, via the education tax credit, up to a million dollars every three years.

**Chairman Gannon:** So your questions are 1) a governance question relinquishing control of a nonprofit and 2) what risk the state will take if the whole thing collapses? And the next question would then be whether or not there would be perpetual donations to the herd for the initial stocking and then they would propagate and of course sell and buy like any other herd?

**Senator Schroeder:** We should also ask what the surplus might be in this operation, when it comes to alternative fuels, and how do we market it.

**Senator Corder:** My question is what would be the relationship between the Cane Center and this operation? Also, would the Cane Center be moved there or would it stay in its present location? We were also told that there are a number of contingencies regarding risk analysis. I would also like to see the tie to the smaller dairies.

**Senator Heinrich:** I would like further explanation of their operational plan to make sure they are funding the depreciation schedules so that years down the road, when modifications to the physical plant will be funded, they will not have to come back for more general fund dollars.

**Senator McGee:** Would you add to Senator Corder's question the

economic benefit to keep--???? — also the how and whom the research would be used and who those partners are going to be.

**Chairman Gannon:** Some of these questions overlap. Senator Hill, your question is tougher. If the University gave an answer to that, would you consider that to be an appropriate answer?

**Senator Hill:** Yes, I do think that would be appropriate as we look at this project.

**Chairman Gannon:** Senator Kelly, would you be content to get together with the University of Idaho legal staff and have them answer your questions, although the organizational questions will overlap.

**Chairman Kelly:** I don't mind meeting with the legal staff but I do think it is a critical issue for the committee as a whole to understand how the organizational setup is going to work. We are being asked to invest taxpayers' money into this enterprise and to understand how the control of those monies is going to work afterward.

**Senator Hill:** I agree with Senator Kelly. I think it is important to understand the whole makeup of the project. Senator Stennett's remark about the tax credits could change depending upon what kind of entity they use here. I think we need to understand how the cows are being donated, even though it may not be an educational institution when they get through with it.

**Senator Kelly:** We were told that this nonprofit was being set up to include procurement, human resources and the things needed to become a state entity and I am wondering what the other implications might be?

**Chairman Gannon:** We have been asking questions regarding risk analysis. They have done a significant risk analysis. I think that if they would present the analysis to us, we could better understand the parameters used to do the analysis, and then we might come away with the same conclusions as they have.

**Senator Stennett:** The question of risk is that if the project collapses, would the state step in and feed it?

**Chairman Gannon:** If we get the risk analysis in front of us, we might be able to see what they see. Also, the tax impact on the cows; there was significant analysis on the lease to purchase. That analysis is available from the University of Idaho and the Dairymen's Association. Regarding the value of surplus products, biofuels etc, those answers may be a result of the research but we can certainly ask that question. In relationship to the Cane Center; there has been a lot of discussion on that. What is the benefit to the small dairies? That is a question we need to put on the table. Funding depreciation for future replacement; that should be in the business plan. The Cane Center and the economic impact to Canyon County.

**Senator McGee:** I would like to have more information with regards to what competing states are doing.

**Chairman Gannon:** I will get together with the appropriate individuals and we will figure out when the key people will be available.

**Senator Siddoway:** I am still not convinced that this increase in production is not going to have an adverse effect on the milk prices. I don't know if that concern is ever going to be alleviated. It sounds like we are going to address the issues with the Cane Center but I guess we will find out when we address JFAC.

**Senator Schroeder:** We all want to thank the good **Chairman** for setting the time aside for having a very thorough hearing on these questions. It is very important to discuss these issues before we make this tremendous decision on this endeavor.

**Chairman Gannon:** I think we are not going to get to the elk bills for another week or so. Representative Trail is referring any elk bills to the Senate Agriculture Committee, so we will have all the elk bills before us soon. It might take another week or so. I am starting to get the commission reports in and we will schedule those presentations as soon as possible. We would like to see those folks take a hard look at their industries and create some projections. That's the general roadmap of where I see the committee going right now, but we need to be adjourned by April 1. If there are no further questions, the committee is adjourned. The committee adjourned at 10:15 A.M.

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Senator Tom Gannon

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Connie Bosserman, Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** January 25, 2007

**TIME:** 8:00 am

**PLACE:** Room 437

**MEMBERS PRESENT:** Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Kelly

**MEMBERS ABSENT/ EXCUSED:** Chairman Gannon  
(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)

**MINUTES:** Vice Chairman Heinrich called the meeting to order at 8:00 AM. We will be reviewing rules today with John Chatburn, Deputy Administrator of the Department of Agriculture, Division of Animal Industries, starting on page 20 of the Rules book.

#### **Docket No. 02-0403-0601 Rules Governing Animal Industries**

Mr. Chatburn: Starting at Section 004, page 22, we have updated the items to reflect the most recent dates and added a couple of abbreviations for various tests. On the next page, under section 207.04 is a slight misprint and we are working with the office of Administrative Rules to correct it. We've struck out the EIA sample, as collected, and it should read that the certificate is good for no longer than six months from the date of veterinary inspection. When we get to the import rules, we are amending the length of time that the EIA negative test results are valid, and that's why it's stricken out of this section. We also struck the Trichomoniasis portions of 02-0403. You will see those later as a new rule chapter as 02-0429, Rules Governing Trichomoniasis. On page 30, Section 350, Reportable Diseases, we had a list A and B from the Office of International Epizootics as part of the reportable diseases. OIE now has just one list of diseases notifiable to them and so we have made that change.

**Senator Corder:** What is Mr. Stevenson's advice in regards to the error on page 23? Mr. Stevenson, Administrative Rules Coordinator, said that it was probably a mistake in a pending rule. They obviously wanted to make the language coherent. In the publication they missed a couple of strike-outs. We would like to run a correction notice and, as long as you are aware, we should be fine. **I can bring that notice to you.**

**Senator Corder:** Given that error, I think we should approve this one separately. I would move that we approve Docket No. 02-0403-0601 with the syntax correction.

**Vice Chairman Heinrich:** We have a motion to approve this docket separately and noted that it will be published in the February issue to change that wording. The motion was made by Senator Corder and seconded by Senator Kelly. Motion carried by voice vote.

### **Docket No. 02-0420-0601 Rules Governing Brucellosis**

Mr. Chatburn: The changes to this docket start at the top of page 35. These are the rules governing Brucellosis. We have added a definition for commuter herds. It was a term that was used in the rules but had never been defined. Several places through here we have added an "s" to make it premises, and oversight from earlier rule-makings. Then on page 36, we have added definition for Parturient and Postparturient. Under the Quarantine definition, we have struck "where found" and added "to be" to make it more readable.

On page 37, we have added a definition for "test eligible" which was a term that was not defined in previous rules. We have defined "test eligible" as sexually intact cattle and "domestic bison" as eighteen (18) months of age and over, and "all parturient" and "postparturient" cattle and domestic bison regardless of age. On page 38 is the bulk of the substantive changes. It says that "all test-eligible cattle must be tested negative for Brucellosis that are exported from Idaho and must be tested negative for Brucellosis within thirty days prior to interstate shipment." That's because of our reduction in status from Class 3 to Class A. There are several exceptions. Section 04 states that we will conduct Brucellosis ring tests on dairy herds at least four times a year. When we were Class 3, we were testing two times a year. Now that we are Class A, we are required to test four times a year. We are actually testing six times a year in the high-risk area in eastern Idaho.

On page 39, we struck out of the rule the particular language that is from an old version of the statute and inserted language to identify the animals in accordance with the 2003 uniform methods and rules for the eradication of Brucellosis. We have made the same changes on page 40 under Reactor Animals and Suspect Animals. At the bottom of page 40, we have inserted into the title of Section 121, "in an eradication area." The state has the ability to declare an eradication area. This is an old section of rules, but it was the only place in the rules where "test eligible" was used, even though it was in among the eradication area parts. We've made it clear that these provisions apply if the state declares an eradication area. Mr. Stevenson has assured me that the printing twice of "an eradication area" will be corrected in the February bulletin.

**Senator Schroeder:** Would you please describe for me the instance in which testing would be waived for interstate movement when both the state veterinarian of the receiving state and the Idaho veterinarian agree in writing that testing may be waived? And, what are the circumstances that may lead up to that? Mr. Chatburn said there are actually two provisions in the Code of Federal Regulations and in the Uniform Methods and Rules. In the normal course of business, if you have a cattle herd that you winter or summer in Idaho and/or you winter or summer in

another state, if there is no apparent disease concern, the other state will do a risk analysis and may decide that the herd does not pose a risk to them and will allow it to move. The other provision has to do with animals that are destined to a terminal feedlot where no animals come out of that feedlot except to slaughter. We have not had any applications to utilize that provision since it was inserted into the rules, and we don't know if any other states feel that they have enough control on their feedlots to utilize that provision or not. We do issue a lot of interstate grazing permits for either herds leaving Idaho or herds that come here to summer. Every state that surrounds us, with the exception of Wyoming and California, has taken the herds that leave Idaho and go to those states, on a case by case basis. If they have originated outside of the high risk area, as we have defined it, the state veterinarian in the other state has waived the testing requirements for those herds.

### **Docket No. 02-0421-0601 Rules Governing Importation of Animals**

Mr. Chatburn: Beginning on page 44, we have once again updated the incorporation by reference section. You will notice, in the extended equine validity certificate section on page 46, that the same language has been stricken there that was stricken in the earlier rule except that we didn't strike the part that needed to stay in.

On page 47 under Tests, Section 02, at the top, it talks about grazing permits for western states. There wasn't a definition of western states and we really don't know how to break that out if we had a herd of cattle that summered in Idaho and wintered in Nebraska, or vice versa. We have numerous herds that spend one season here and the other season in California or Arizona, but we want to leave the possibility open that we could have herds that would spend the summer season here and the winter season in Nebraska or Kansas. We have stricken out "western" and left it at "states" so that the two state veterinarians, who are the Chief Livestock Sanitary Officials, can determine if the herd poses a risk.

In Section 02, we have stricken "or" and stricken "herd tests" so that it states that the administrator has authority to impose a TB, Brucellosis or, and we have inserted "other" in case we have some emerging diseases that, fortunately, haven't been found in Idaho. If we feel the need to require testing, we have the authority to do that. Another fairly large change is at the bottom of that page under the Trichomoniasis section, where it says that the bulls that are imported have to test negative AND not have been exposed to female cattle since the test was collected. Previously, there was no prohibition in the rule against turning them out with infected cows before they were imported into Idaho.

On Page 48, under Section 300.01, EIA test requirements, we have made the EIA tests good for twelve months rather than six months. We have a lot of horse owners coming to us from in-state and out of state. Most of our surrounding states are at twelve months on the validity of a negative EIA test and everyone wanted to know what Idaho's scientific justification for requiring six months was. As we researched it, there was no justification for us being more restrictive on that than the surrounding



states, so we have made that adjustment.

Down in the swine section on the bottom of page 48, rather than referring people to other sections of the code for identification purposes, we have put the identification required for the importation of swine. We have stricken some language on page 49, since the permit requirements are already covered, we didn't feel it was necessary to restate them. On the bottom of page 50, we have inserted into the rules the requirements for the importation of domestic fur-bearing animals. We've taken the last sentence and put that as 01. Then, if you look at the top of page 51, we have an import requirement for mink to be tested negative with the CEP test within 30 days prior to importation. That was an import requirement that was put into effect by the Department of Agriculture through administrative order last spring, at the request of Idaho's mink industry and rather than leave it in administrative order, we moved it to the rules.

### **Docket No. 02-0427-0601 Rules Governing Deleterious Exotic Animals**

On page 54, we are inserting a section that says "the administrator may order non permitted or illegally imported deleterious exotic animals to be removed from the state, moved to premises that are in compliance with this chapter or destroyed." And that is language that we have in several of our rules with the exception that "destroyed" usually says "slaughtered" because the other rules deal with livestock, and we have changed "slaughtered" to "destroyed" and used essentially the same language. Section 900 was inserted to add new animals to the list of deleterious exotic animals. It was determined through visiting with some of the folks in the exotic animal business that we should also have the ability to remove animals from the list if it is proven that they do not pose a danger to the environment, agriculture or native wildlife. We have changed that from "additional requirements" to "addition of animals" and it says that we may add or remove animals with an administrative order.

**Senator McGee:** Will you please give us the definition of "deleterious exotic animals"? Mr. Chatburn said that deleterious exotic animals are defined as animals that are not native to the state of Idaho and are a danger to either agriculture, the environment or native wildlife.

**Senator Schroeder:** Mr. Chatburn, when we talk about deleterious exotic animals and fallow deer, does the Department of Agriculture have the authority to issue orders to get rid of them if they so choose? Mr. Chatburn responded by saying that concerning the Department, and concerning domestic Cervidae, the primary provisions in the rules right now are that if an animal is determined to have Red Deer Genetics (RDG) or RDG influence, that animal could be ordered removed from the state, destroyed or neutered.

**Senator Schroeder:** Follow-up: If nonnative animals, like fallow deer are determined by the Director of the Department of Agriculture to be deleterious exotic animals, could they be ordered to be removed? Mr. Chatburn said that he does not believe that is the case because fallow

deer are statutorily defined as domestic Cervidae and they are not on the deleterious exotic animal list. In order to remove those animals that are defined as domestic Cervidae and defined as livestock, which would take them out of the realm of deleterious exotic animals, we would have to come to the legislature for a statutory change, I believe.

**Senator Schroeder:** What would fall under the category of deleterious exotic animals? Mr. Chatburn said that the ones that come to his mind immediately would be certain types of crabs, most large cats, lions, tigers, and some primates. The list is somewhat extensive but not nearly as extensive as the list from other states. Oregon, for example, has about twenty-five to thirty pages of deleterious exotic animals. We have about four pages, and that includes fish.

**Senator Schroeder:** Would you furnish the committee with a copy of that list? Mr. Chatburn said absolutely.

**Senator Hill:** Going back to the previous rule about mink, do we still have imported mink? Mr. Chatburn said yes, we still have a number of mink farms. The price of mink is up, I am happy to report. As to an actual number, I can only give you a guess. We don't issue licenses or permits to them. There are about twenty plus producers in southeast Idaho, six to eight in the Magic Valley and three or four in the Treasure Valley.

**Vice Chairman Heinrich:** Would this rule have helped deal with the zoo in Bannock County two or three years ago? Mr. Chatburn responded yes, and it will also help us deal with another issue that we have currently in western Idaho.

#### **Docket No. 0204-2906-01 Rules Governing Trichomoniasis**

This rule begins on page 57, and this is a new rule chapter. We have taken the provisions governing Trichomoniasis from the Rule 02-0403 and promulgated them as a separate chapter. There are a couple of changes from the proposed rule. The first one is on page 58, under the definition of cattle, where we have gone back to the old definition of Bovidae, rather than the definition that was printed which was any member of the genus Bos. The other primary change is on page sixty, Section 100, and that is the addition of some language that was pointed out. The Trichomoniasis testing season begins September 1 and the way the rule was written said that individuals could turn out untested bulls after September 1, as long as they, at some point, gathered the bulls and tested them before April 15. That was a loophole that we had a problem with and the Trichomoniasis Task Force recommended that we close that loophole. We have taken care of that problem with this amendment. The next change is on page 63 and it is under Section 310, Infected Bulls and Herds; 01: Quarantine of Infected Herds. We have added the language "all bulls for a period of up to 120 days the quarantine may include a provision requiring all breeding age female cattle in the infected herd to be held in isolation from, as determined by the administrator. " The reason for this is if you keep the bulls from the cows, the infection in the herd will clear itself up. Those are the only two changes from the rules governing Trichomoniasis, as they

existed in 02-0403 prior to us promulgating them in 02-0429.

### **Docket No. 46-0101-0601 Board of Veterinary Medical Examiners**

Dr. Bob Beede, President, Board of Veterinary Medicine, spoke to the committee about the purpose of the rule changes that will clarify the confusing issues and take care of some antiquated rules or rules which may be in conflict with other provisions within the codes. On page 113, Section b is actually a duplicate and one needs to be stricken. Next, Section 006.-009, Section b.i makes provision to accept PAVE (Programs for the Assessment of Veterinary Education) foreign graduates. Many students cannot get into the veterinary schools here in the states because of the stiff competition. Students have gone to other schools outside the U.S. and they graduate as excellent students. PAVE was started by the American Association of Veterinary State Boards to help these students get through the process of returning to the U.S. faster. There is normally a backlog of three years. That has allowed the students to be tested to see if they qualify to become licensed. This change will allow the state of Idaho to accept the test that PAVE has created.

**Senator Corder:** How do you determine whether students have “good moral character and reputation”? Dr. Beede responded that the students are required to get letters of recommendation from practitioners within Idaho. In that process, there should be a relationship already in place and hopefully the people writing these recommendations are accurate. There are a couple of students that have been refused.

Dr. Beede continued on page 116, Section b, striking thirty hours of continuing education (CE) in three years. The change would be in the renewal process to make it twenty hours every two years so that veterinarians are keeping current with emerging issues. Page 117, Section 03.a of Education Requirements, is just a further reference to the minimum of twenty hours in two years verses thirty hours in three years. Section 03.b, this change allows veterinarians to take online courses to meet these requirements. On page 118, Section 04, we struck the three years and put in a required period because once in a while a veterinarian will have a personal crisis which may keep them from fulfilling their CE in the allotted time. We want a provision to be able to work with them and facilitate the situation if there is an unusual situation. On page 119, Item e has been stricken because the Department of Finance said we couldn't hold these checks and this section just clarifies the language so we are in compliance. Page 120, 017-099, Section 100, we have stricken the date of July 1, 2000 because the grandfather provision, allowing technicians to become certified in Idaho, has since passed. On page 121, these are all antiquated items in which the grandfather clause has expired and does not need to be in the rules. On page 122, Section 102, we have once again changed the technician hours to twenty over a period of two years to match what we do for the veterinarians, and also match the changes that are made at the top of page 123. Also, on page 123, Section 106.01, we put a statute of limitations of one year in after the occurrence of the alleged event. Some of these cases will pop up after four or five years and the details are hard to remember. This section keeps things in a

timely manner so that complaints are brought when they are pertinent to prevent personality issues from popping up later. Page 124.03, this allows small town veterinarians to be able to take advantage of family functions. It allows them to be able to designate another practitioner in case there are issues with a client while they are gone.

**Senator Kelly:** The section doesn't state that the designee has to be a practicing veterinarian. Do we assume that?

Ms. Ewing: That issue would be covered in the laws regarding who can practice veterinary medicine and the earlier sections of our rules do specify who can practice in Idaho, so it would all tie in.

Dr. Beede: On page 125, we changed item b to reflect the standard of care within the community so that we are not applying the standard of care for New York City to the veterinarian in Soda Springs. The wording allows the standard of care for preventative medicine to be consistent with what is expected in that area. We are also asking that the anesthetic monitoring be in written form within the patient record so that it is very clear to the veterinarian and client, if there are ever any questions. Page 126, item b; this protects private records from being removed by the practice owner or technician for any other reason other than business. Item .09; Verbal and Physical Abuse - Client, the House recommended that item be stricken. This situation is difficult to prosecute within our board, and it can become emotional.

Ms. Ewing: The House hearing was held regarding this provision and Representative Lake asked that it be left in. Dr. Bramwell had called me and asked that I speak to the Board. They felt that if everyone wanted to leave the paragraph in, it would be done. The Board's concern was that it was almost unenforceable. A motion was then made by the House committee to leave it in.

**Senator Schroeder:** If a veterinarian was convicted of assaulting their client, which is a felony conviction and would be put on parole, can he resume his practice? Dr. Beede: No, once a veterinarian is convicted of a felony, it would come before our board and we would take their license.

**Senator Schroeder:** How about a misdemeanor charge? Dr. Beede: That situation did come before the Board to be reviewed, is that right Ms. Ewing?

Ms. Ewing: Yes, that is correct, but I am not sure if a misdemeanor would allow us to take their license. I would have to research that further.

Dr. Beede: Within the Veterinary Code of Ethics, on page 113, Item a, the principles have been updated to 2005. It addresses issues of ethics and conduct within that portion of the code.

**Senator Schroeder:** Follow-up: I can see why the House may want to leave that portion in. If we strike it out, it may appear that we don't care. It might have been left in for that reason.

**Senator Hill:** Is it true that a felony assault upon a client is governed by criminal law? It must be beyond a reasonable doubt. Even though someone has not committed a crime, if a client calls and complains, the Board may look at it as though they have no rules governing verbal assault. It just doesn't seem very responsive.

Dr. Beede: We have looked at issues of evidence and there was a case where the veterinarian was convicted of assault on a client. He was licensed in both Idaho and Colorado and he was placed on probation by the Boards until he complied with their conditions. We have taken on those instances based on the veterinary code of ethics.

**Senator Schroeder:** Has this rule caused you problems or not? And, if so, what are the problems it has caused?

Ms. Ewing: I have worked for the Board for three years now and, so far, I have not been aware of any complaints where we have attempted to prosecute anyone based on verbal abuse. We do get calls from clients who have had complaints about how they have been treated by veterinarians but in those instances, there were no witnesses. It has not been an issue so far.

**Senator Corder:** Mr. Stevenson, how did the house resolve this portion of the rules? Also, do we have similar rules regarding the relationship between clients and practitioners and other professional groups within our state? Mr. Stevenson: I am not sure what action the House has taken. In order to leave the language in the rule, we would have to reject that portion of the rule. There are a number of professions that incorporate a code of ethics into their rule and they do address those sorts of issues. I believe **Senator Kelly** could address the administrative hearing process as far as someone taking action against a veterinarian. We still have an appeals process and the issue would go through the administrative hearing and eventually, it would end up in district court in which they would review the action.

**Senator Stennett:** If we repeal a portion of the rule, does that have an effect as amending the rule? Mr. Stevenson: My personal opinion is yes, however, according to what is still the precedent that has been set in the administrative rules process, yes, you can reject a provision.

**Senator Stennett:** It is possible to amend rules by that process? You can't add language but you can basically amend by choosing what portion you want to accept? Mr. Stevenson: You do have to reject the entire subsection. For instance, you can't take a sentence out of a subsection. You would reject the entire subsection or the entire rule or the entire docket, whatever the case might be.

**Senator Siddoway:** Dr. Beede, if I had a question on the conduct of a veterinarian, does the Board's authority continue into a twenty-four/seven aspect of their life or is it just during their professional paid time? Dr. Beede: With each license renewal, the veterinarian is asked if there has been any felony convictions or adverse rulings from other state

boards. The state boards communicate with each other when there are things that happen. Ms. Ewing, do you know of any legal situations from within the state regarding veterinarians?

Ms. Ewing: In our grounds for discipline, not only do we have the ability to take action based on a felony, we also can take action with any other criminal act which, in any way, is related to the practice of veterinary medicine, as defined by Section 54-2103, Idaho Code. And that sets forth what the practice of "veterinary medicine" is. This is a question I would be asking our attorney because some of these areas become very gray with our ability to prosecute.

**Vice Chairman Heinrich:** Doctor, if you are requiring good morals and a good reputation, can you then also take disciplinary action if perhaps those two things would deteriorate? Dr. Beede: The AVMA Code of Ethics does address those things. And if there is a felony conviction or a drug conviction, we can take action in those situations. In some of the other ethics situations, the Principles of Veterinary Medical Ethics of the AVMA, 2005, looks at various behaviors from veterinarians. We had one case last fall where there wasn't a clear violation of the practice act and the veterinarian was sent a letter reprimanding them about their ethics, but there wasn't anything that we could take action on.

**Senator Kelly:** I think that these are good questions regarding the regulation of a practice and the regulation of a profession. A license does give people a privilege or right to practice and so they have certain due-process rights, if someone is talking about taking that away. The systems that we have set up, as Mr. Stevenson referenced, have some very strict parameters for due-process. I assume that the veterinary board is endowed with power to conduct hearings, receive evidence and require sworn testimony which does provide due-process rights to anyone who is a subject of that kind of investigation or hearing and, certainly, after the board takes any action, there are rights to appeal to higher authority, including the courts. There are also protections in place that would require any action to be related to the practice of whatever that particular profession is. So, if someone is doing something in their personal life that doesn't really affect their ability to provide competent services to the client, there can be very gray areas. It is frequently based on a particular factual situation but those parameters are in place as safeguards.

Dr. Beede: Page 126, Item 12 talks about consent forms and it is covered elsewhere, so that item is stricken. Going to page 127, this allows the veterinarian to choose whom they will serve which is in line with the AVMA requirements. It puts the ethics of the AVMA, and this particular rule, in compliance with each other. Item 01.a was changed so that there is a standard of care. Page 129, Item 06, Anesthesia Standards, this section is just making sure that the patient is appropriately monitored while they are under general anesthesia. In my own practice, all my x-rays, patient records and ultrasound is electronic. And with that you have to have safeguards, so this clause allows electronic records but also provides for backups and storage. There is also a time limit that these

records must be kept. Item h talks about written anesthesia records, Section 02, talks about having consent forms before we give anesthesia to make sure the client has given permission, which is critical. In Section 03, we need written instructions for an animal when that animal leaves the care of the veterinarian, and the records also must be kept in the medical records. The continuity of care is completing the process. Page 131, Section 07, we feel that with every animal left with a veterinarian, there should be a written estimate on request by that client. It's only fair that they know in advance what fees they will be incurring. Page 133, Section 200, there is a Euthanasia task force, and we are striking this one line to tighten up the definition so the certified technicians are not doing things they shouldn't be doing in the process. Page 134, Section 205; the Attorney General's office thought this was redundant, and so to clean things up, they had the verbage struck. Page 137, Section 03.a and page 138, item f, we changed that section to tighten up the process of a certified euthanasia technician. We want the veterinarian to be overseeing the technician because they are dealing with a very dangerous product that can kill.

**Senator Kelly:** We heard testimony where a subcommittee of the House Agriculture Committee decided to not delete Section 09. Does the full committee consider the subcommittee's proposal? Mr. Stevenson: Normally, when the House divides into subcommittees, the subcommittee reports back to the full committee. In most cases, where they consider rejecting a partial or entire docket, they will reconsider that entire docket.

**Vice Chairman Heinrich:** Could we hold the decision on a rule if we are waiting for an action from the House? Mr. Stevenson: Yes, you could hold a rule until the House responds, if that's what you choose to do. I am not sure what action the House might take.

**Senator Corder:** I don't think it matters to us what the House does. We need to make our decision based on what we believe regardless of what they do. I am prepared to make a motion that we approve Docket No. 46-0101-0601.

**Senator Siddoway:** And I will second the motion.

**Vice Chairman Heinrich:** A motion was made by **Senator Corder** and seconded by **Senator Siddoway**. **Senator Schroeder**.

**Senator Schroeder:** Substitute motion; I move that we approve Docket No. 46-0101-0601 with the exception of the Section 09 on verbal, physical abuse.

**Senator Hill:** I will second the motion.

**Vice Chairman Heinrich:** Senator Schroeder made a substitute motion and Senator Hill seconded that motion. Further discussion?

**Senator Corder:** The language in the rules pertaining to physicians, accountants, lawyers and other professional organizations is not clear to

me. I don't think language exists that says "verbally and physically abused client." Why should we require something of our veterinarians that they should, by nature, not do, even though we require every other organization to do. That's why I am going to oppose the substitute motion.

**Vice Chairman Heinrich:** All in favor of the substitute motion? Substitute motion fails by voice vote. Original Motion carried by voice vote. I have one more question. In Section 005.01 there was a second "b." Is that automatically stricken? Mr. Stevenson: I could run a correction notice on that. I think it may just be a formatting error.

**Senator Siddoway:** I have a couple of questions if Dr. Beede would be willing to answer them to satisfy my personal inquiry? I have heard that there is a proposal to cause regulatory licensing for everyone that distributes and deals in veterinary medicine-type drugs in the state of Idaho. Do you know why there should be licensing and charge fees for those now? Dr. Beede: I am not aware of any changes, are you Ms. Ewing?

Ms. Ewing: That is a Department of Agriculture proposal. It has not been directed to the Board of Veterinary Medicine at all.

**Senator Siddoway:** I have also been aware that some veterinarians have been willing to distribute drugs for animals where they were not present and allowed other people to perform veterinary-type functions. One example is if a cowboy wanted to castrate a horse and he went to a veterinarian to get some drugs to put the horse down while he took care of that procedure. Does the Board do any policing on that or is that left up to the state? Is that part of an ethics question? Dr. Beede: there has to be a doctor-client relationship to begin with. There are certain medications that would depend upon the relationship with the individual and the veterinarian before they would supply that individual with medication. There are practitioners who own their own operations and they can train and have a non-licensed practitioner perform anything they want on those premises and that is totally legal. The only time there might be a problem is if a complaint was issued to us.

**Vice Chairman Heinrich:** That concludes the review of the rules. I would ask you to look at the green section. We have approved the motion to approve the Idaho State Police Rule Docket but we have not taken action to approve the rules for the Grape Growers and the Department of Agriculture's Noxious Weeds and Food Products rules. I think it would be in order to ask for a motion to approve those three dockets.

**Senator McGee:** I move the committee approve Docket Nos. 02-0631-0601, 02-0633-0601 and 48-0101-0601.

**Senator Hill:** I second the motion.

**Vice Chairman Heinrich:** Senator McGee moved and Senator Hill seconded the motion. Motion carried by voice vote.



**Senator Siddoway:** Is there some way we could have a report on land exchanges in connection with the dairy research center and how that land might require federal government action?

**Vice Chair Heinrich:** So, your question is, if there is land exchange involved in this project, have the hurdles been taken care of prior to the event, and if not are they still there? If there are no more questions, this committee is adjourned.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** Janaury 30, 2007

**TIME:** 8:00 am

**PLACE:** Room 437

**MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Kelly

**MEMBERS ABSENT/ EXCUSED:** (Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)

**MINUTES:** **Senator Gannon** called the meeting to order at 8:00 AM.

Bill Bandy, Deputy Director, Department of Agriculture, introduced Read Smith from the 25X25 Coalition and talked about the beginning of the 25X25 Renewable Energy Council by then Governor Jim Risch who delegated it to the Departments of Agriculture and Energy. The operation of the 25X25 initiative was brought to the state's attention by Dar Oberding and Stan Boyd last year. They met with then Governor Risch who quickly embraced the idea and delegated it to the Director of the Department of Agriculture at that time. The Department of Agriculture chairs the council and also designates the Department of Environmental Quality, the Department of Lands, Department of Water Resources, Department of Commerce and Labor and the Idaho Transportation Department to be members. They are hoping to have their next council meeting some time in the next month or two. Any interested parties are welcome.

Mr. Smith said he was a graduate of Washington State University. He joined his father on the farm in 1973 and has been a conservation district official and national president and now is the co-chair of the National 25X25 Renewable Energy Initiative. He has his own 10,000 acre diversified grain and livestock operation with his wife and son in Whitman County, Washington.

Mr. Smith said he was pleased to have the honor to be able to share with the committee what he thought was a very important vision for Idaho and our country. This initiative got its roots post 911 when a group of former members of Congress got together and decided the country needed a new energy paradigm. They identified agriculture and forestry as a potential contributor to our nation's problems. They didn't know anything about agriculture. Mr. Smith sat in on one of their meetings and made a few suggestions on how to proceed with the agriculture and forestry sectors. This group has been driven by politics, the price of fuel and the realization that we definitely need to do something.

In the spring of 2004, the initial steering committee came together. The participants were selected from various sectors for their expertise. A four-phase project was developed: 1) create a vision, 2) build an alliance around us, 3) construct a strategy, and 4) bring that strategy to life. We created the vision that by the year 2025, America's farms, ranches and forests will provide 25% of the total energy consumed in our country, while continuing to produce safe and affordable forests and products. This is not the usual ethanol vision. The group was really banking on the technology and the conversion of cellulose to fuels. The plan is to harness wind energy all over the country, convert bio-gas emissions, learn how to effectively and efficiently capture solar energy, and biomass is a major component in this entire initiative.

The 25X25 Alliance is broad based. The group reached out to the entire population and the alliance, comprising major farm groups, commodity groups, the environmental community and corporate America has shown a desire to be involved as well. The graph shows that by the year 2025, those dedicated energy crops are going to represent about half of the feed in our country for energy. If this vision is achieved, a brand-new economy will be created that will be worth about \$700 billion to our country. This plan will create five million new jobs, most of which will be in rural America. Our 2007 objectives are to establish this as a national goal. There are resolutions in the House and in the Senate and we believe we are going to see that vision passed in Congress. Building public support is going to be a major component this next year.

**Senator Schroeder:** If someone is an agricultural producer and they have absolutely no control over their energy costs, please tell me that this is not just another government structure that farmers are dependent on. Mr. Smith: This is a private structure from the bottom up, not a government structure. It does not need to be supported by tax dollars. There may be a need for some help kicking off technologies, but there are opportunities for any farmer to participate in a co-op where they bring in crops and take out fuel. This allows the group to become self-sufficient and decide what costs ultimately will be.

**Senator Kelly:** Your plan is to have commercially viable cellulosic ethanol by 2012. That is sooner than I have been hearing. Mr. Smith: It may be sooner than that. Our group has met with the National Renewable Energy lab in Boulder, Colorado. They are saying within a couple of years they will have cellulosic ethanol at less than two dollars a gallon. Idaho hopefully will have a potential plant site in the very near future. It's not the process, it's the cost that has to come down.

**Chairman Gannon:** Where does hydro fit in the definition of renewables? Mr. Smith: Hydro is definitely a renewable resource. We are considering renewables as those sources of energy that can be produced from the land. Some are considering nuclear renewables as well.

**Chairman Gannon:** Thank you for coming, Mr. Smith. Committee, as you know, we came up with a list of questions regarding the proposed life science facility. Following the last committee meeting, I met with the key

players and asked when they would be prepared to come back and address the questions. They are ready now and Rich Garber is here and has a handout for the committee as a roadmap.

I am Rich Garber, Director of Industry and Government Relations for the College of Agriculture and Life Sciences at the University of Idaho. Steve Hammel will start the discussion with the first four questions.

Steve Hammel: Question one: What impact will this facility have on other college agriculture and science programs? Since 2004 we felt the importance of addressing the needs of the agriculture industry and the change in landscape, as well as the moving away from the traditional agriculture production areas while maintaining balance. We are trying to meet that need with the growing dairy industry as well as the livestock industry.

Question two: How will the facilities be used by other partners? We have three partners: College of Southern Idaho, USDA Agriculture Research Service and the Idaho National Laboratory. I will leave the question regarding the College of Southern Idaho until later. Our plan is to create a platform for research teaching and extension capabilities. It also gives us the ability to garner better external grants to solve our problems at home. These partners are dedicated and the Agriculture Research Service has been talking with them to try and bring in top notch scientists to do research at our center. The Cane Center is the veterinary teaching center and the state of Washington has been involved in the Cane Center, doing diagnostics and various other things. We are considering relocating the Cane Center to the proposed site and that will take into account office needs that will be necessary for research. The setting is planned to be very flexible to meet research and future needs. The infrastructure facility is needed to support the dairy and beef as it meets the challenges of the future.

Question four: What does the Cane Center contribute to Canyon County? The Cane Center contributes in two ways: 1) monetarily and 2) it provides diagnostic services and animal components with the veterinary staff at the site to the dairymen as well as the feedlot operations.

**Chairman Gannon:** Is that service unique to Canyon County or can other people access it? Mr. Hammel: It is available to everyone outside of Canyon County as well.

**Senator Schroeder:** Someone brought up the issue if the real estate was traded, it may violate the Morrill Act? Mr. Hammel: There are 320 acres where the Caldwell research extension center sits. Currently, a portion of the 280 acres is owned by the University of Idaho.

**Senator Schroeder:** Are there prohibitions in the Morrill Act that would prohibit land exchanged of any kind? Mr. Hamill: No, not currently for land exchange. The Cane Center is sitting on existing land owned by the University of Idaho.

**Senator McGee:** I would like the University of Idaho folks to brief me later in more detail on the Cane Center plans for the near future.

**Chairman Gannon:** Our next speaker is Bob Naerebout, Executive Director of the Idaho Dairymen's Association.

Mr. Naerebout: In order to give you a grasp of how the Idaho Dairymen's Association came here, I would like to tell you a little about the Association and our makeup. We represent all the dairy producers in Idaho, regardless of their size. The board makes up 18 members and four of those members milk over one thousand cows, the largest being eight thousand five hundred. Five members milk between five hundred and eight hundred head, five members milk between two hundred and four hundred head and four members milk less than one hundred head, two members milking forty-five head. The numbers become critically important because, over the last five years, we have had numerous debates, numerous discussions and numerous votes, not only on the location of the facility, but the size and the research that will be conducted as well. And, out of all those votes, there were no dissenting votes. The majority of the dairies are in the Magic Valley, but the voting structure is equally divided among all regions. Treasure Valley has six votes, Magic Valley has six votes and eastern Idaho has six votes.

The main question here is what about competition with markets? We are producing, right now, more than thirty million pounds of milk a day. This will add about one hundred eight-thousand pounds, looking at the average production. To put it into a different context, on sixty thousand pound loads, we have five hundred two loads a day. The extra milk generated from this proposed facility won't even raise it to five hundred and four. As far as competition in the marketplace is concerned, the extra milk would add a little more than three tenths of one percent of additional milk. When milk is marketed in Idaho, none of the milk is marketed by going into the organization and saying "I've got this load of milk, what's my price?" It's all done through competitive pricing mechanisms that are based on national prices, not on state and local prices. The small and large producers don't see adding that amount of milk to the market as a pitfall.

The next question was concerning competition for feed. Grain is not the issue, but it could potentially be for roughage. That all depends upon the land we associate with this facility. The next question is air quality and the proposed dairy benefitting only large producers. This research will pertain to small producers as well as large producers and the center has equal benefit to the small producer, as well as the large producer.

**Senator Stennett:** Will the structure of the operation qualify for USDA programs? Mr. Naerebout: Not only will it qualify for the programs that the current industry qualifies for, but it will also pay the same assessments that the industry pays, as long as it is selling its milk into the mainstream production line.

**Senator Stennett:** What is the average support price per cow over the

last three to five years? Mr. Naerebout: There is a federal program called the MILC Program that provides more dollars for the smaller producer than the large producer, but our dairy association voted to oppose these types of programs. The Idaho industry would rather let the free market system work and not allow the federal government to step in. **I would rather get back to you with a number on a state basis and a national basis, if that is all right with you, so I can have an accurate number.**

**Senator Corder:** I was curious if there is a sense from the dairymen that this research will really be able to help them survive or is it a resignation that they won't survive and take away the pain of not surviving?

Mr. Naerebout: Our producers are looking at this facility to help them address the environmental side of the equation. It doesn't matter about getting more milk out of the cow if the producer can't afford to own the cow. They are being held to a different standard environmentally than they were twenty years ago and they need assistance.

**Chairman Gannon:** In regards to today's dairies in Idaho, it will even be less this next year, as far as percentage of dairies, will it not?

Mr. Naerebout: If we continue to grow the way we are now, we will continue to grow in Idaho. Next, welcome Matt Thompson.

Mr. Thompson: I came to Idaho ten years ago and worked for the Department of Agriculture in their engineering group for seven years. I then started my own consulting firm for livestock operations. The question given to me is why do we want to build a new facility rather than lease or purchase an existing facility? Mr. Thompson: The first issue is the availability for a fifteen hundred head facility that has not been spoken for. There is such a need for this size of facility. You not only have competition for the facility, you also have to find one that meets the needs of a research facility. Those factors together create the need for a new facility. With an existing facility, there will have to be changes made to the facility which brings the dollar amount up to the cost of building a new one. We have individual producers that have been spending their own money experimenting on these technologies and we need a place where we can develop technologies and give the producer a package to implement on their farms.

**Senator Siddoway:** Was there ever an opportunity to cooperate with an existing dairy rather than buying a dairy out and compensating the producer for the research going on rather than putting up all of the costs for the herd and the facility? Mr. Thompson: We have looked at numerous options and that kind of scenario would present its own challenges. It would reduce some of the infrastructure, but one of the issues we have is going into an existing facility where the animals are tightly packed. There are no places to put monitoring equipment and no room for sample selection. It limits the ability to do research down the road for environmental issues, not just animal issues. This has been a seven-year project and every scenario can be very lengthy.

**Senator Stennett:** To fix the environmental issues of today is going to require retrofit. We need to fix the odor on existing dairies. If we are

going to create new dairy, if it doesn't fit the technology of the existing ones, what point is there in creating a new one? Mr. Thompson: The research dairy is going to be applicable to the other operations out there. We have been doing small research projects on various dairies throughout the valley. It poses a serious amount of logistic issues and integrating within each of those facilities. This facility would eliminate those issues and give us the freedom to do the research that needs to be done.

**Senator Corder:** Will there be a conflict between the research side and the production side? Mr. Thompson said that the existing facilities do have these challenges now. That's part of the business model. The facility at Moscow has those issues now but there are a lot of checks and balances to make sure the research is not being hampered in any way.

**Senator Corder:** Who will be the chief operating officer, making the decisions, be responsible to? And, will this facility create the way-stream that brings back revenue or will it just be coming up with a system to offer to other dairies? Mr. Thompson said we wouldn't want to lock ourselves into being a digester, revenue driven, generating-type facility. The desire here is flexibility so that if something better comes down the road, we want to be able to test it and try it. And, yes there will be opportunities to generate revenue with this but we want the adaptability to test, try and prove other technologies.

**Senator Corder:** Regardless of the type of system, there must have been some expectation of income coming in. Is that anticipated in any of these scenarios? Mr. Thompson said no, we did not project any income coming back to the facility and if there is income, it would just be a bonus, going back into the facility for further research.

**Senator Stennett:** Can you tell me where the research discount is in the income statement? Mr. Matlik, General Counsel for the University of Idaho, said, as a transaction technician, it is less expensive to run this facility than a private producer because of the tax issues. We don't get improvements in these areas unless we do research. The Board of Regents of the University of Idaho states that new intellectual property that is developed by research at a state institution needs to be owned by the University of Idaho. We also have the ability to license and market any technology ourselves, but we would seek a third partner, such as the Idaho Dairymen's Association. They would have first rights of refusal to any technology we may develop.

**Senator Schroeder:** In regards to the spinoff of the industry, if the university owns the intellectual property, what is the individual researcher's part as far as ownership? The researcher is not called an owner, they are called an inventor and the relationship with the University is an owner/inventor relationship. The researcher's program gets forty percent of the net royalty that comes back to the university. The University or the Idaho Research Foundation keeps forty percent and the College of Agriculture and Life Sciences keeps twenty percent. Sixty percent goes back to the inventor and the college.

**Senator Schroeder:** Some of the researchers start spinoff companies. Would you please tell me how that works? Mr. Matlik: In many cases it is a preferred method. I actually did that once as a researcher. The Idaho Research Foundation didn't have the resources to take a technology forward that I had developed in Mastitis. We were able to apply for a grant but university employees can't do that so we had to start up a private company. We then had to have an exclusive licensing agreement with the University of Idaho Research Foundation to market and develop the technology.

**Chairman Gannon:** Curtis Eaton is next from the College of Southern Idaho.

Mr. Eaton: This will be an overview of the workforce development from the College of Southern Idaho. We were invited to be a part of this life science project to create the education and training for the workforce related to the dairy industry. We are a charter member of the Southern Idaho Economic Development Organization. There are certificate programs that are just for training to get into the workplace as fast as possible and there are some very sophisticated and detailed transfer programs that take people to the next level of their education.

**Chairman Gannon:** Mr. Patterson, welcome.

Mr. Patterson: With my experience in the aqua culture industry, under Dr. Taylor's era, one thing that was discovered was the need for educated and trained individuals. This facility allows a perfect lab area for technical and two year students. Our mission is education and training and it's an excellent interface with research scientists, industry people and workforce trainees for students of the future.

**Chairman Gannon:** Thank you to all our guests. I hope we have satisfied the committee's questions. I will be in front of JFAC on the 14<sup>th</sup> of February and I would hope the committee would give me some guidance on my presentation. If there are no more questions the committee is adjourned.

**ADJOURNMENT** The committee was adjourned at 10:35 AM.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary



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The committee was adjourned at 10:35 AM.

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 1, 2007

**TIME:** 8:00 am

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Kelly**

**MEMBERS ABSENT/ EXCUSED:** (Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)

**MINUTES:** **Chairman Gannon** called the meeting to order at 8:00 AM. **Senator Hill** introduced his guests from Brigham Young University, Idaho, Mr. Steve McGary and his Agriculture Policy class. **Chairman Gannon** welcomed the class to the committee.

Frank Muir, President and CEO of the Idaho Potato Commission, gave an overview of the annual budget report. Page 13 is a summary of the 2005 audit report revenue expenditures. With the positive revenues and the positive expenditures, we were actually positive \$1 million. Our actual targeted budget put us in the hole \$1.1 million. We were able to use our reserve and only needed to take \$131,000 from the reserve. We will now move to the budget for the current year of 2006. Harvest acres were 328,000 and we were able to hold the acres equal to the prior year. There was additional money put into advertising based on the research for 2007. Demand does increase consumption and we know the program is working. We presented a consolidation plan to the industry to consider proposed ways to reduce costs for growers and shippers in our industry.

**Senator Hill:** There was a question last night about possibly requesting an increase in the cap. When would that go into effect and when is that collected in relationship to the sale of potatoes? Mr. Muir: The proposal would be a cap of 5 cents but we are asking to start at 2.5 cents next year that will be paid after next September's harvest, being collected as it is sold.

**Senator Schroeder:** If we were farmers that wanted to grow potatoes with no limitation or production to the amount grown, would we be able to sell them under the "Idaho" brand? Mr. Muir: The Idaho Potato Commission represents all growers, all shippers and all processors. They do not levy penalties for acreage of what they sell. There are penalties that can be levied for misuse of the label or packing of non-Idaho potatoes in Idaho sacks. If they are a member of United, there are then contract penalties imposed to United members for misuses.

**Senator Schroeder:** Those of us in northern Idaho still wish we could buy

Idaho potatoes in the store rather than Washington potatoes.

Mr. Muir: We have made a concerted effort in recent months to actually visit customers, such as Costco, who are not carrying Idaho potatoes in Idaho stores. We are pleased to report that Costco is now carrying Idaho potatoes in Idaho stores. There is an image that we sell all of our best potatoes to New York. That is not true. It comes down to the buyers and their decisions, but we are trying to work through that issue.

**Vice Chairman Heinrich:** Is the assessment voluntary? Do any of the fresh packers or processors pay any of the assessment? Mr. Muir: The assessment is not voluntary. When the Idaho Potato Commission was set up seventy years ago, they were given taxing power. We do conduct random audits and make sure that all producers growing potatoes pay the taxes.

**Senator Schroeder:** Regarding term limits on the Potato Commission, is that something the Commission asked for or did the Legislature do that? Term limits have been in effect since the beginning and it's a good idea to have young leaders involved. There are a lot of seniors in leadership positions and we want to be able to keep the young people involved as well. Many of the young people walked away a few years ago because the price of potatoes was low and we can't afford to lose them.

**Senator Schroeder:** Are the Commission positions appointed by the Governor? Mr. Muir: Yes, the applicants are nominated by their constituents. The Governor selects from the three top vote-getters.

**Senator Siddoway:** For the average guy that has a few potatoes, if this goes into effect, they will pay on the average of 5 cents, which turns into \$36,000 to one of those mid-sized farmers. Do you feel that you have those farmers on board? Mr. Muir: Yes we do. We don't look at our farmers as taxpayers, we look at them as shareholders. We have to show the growers that this increase is the right thing to do, and the only way to do that is to show them the rational for it. Everyone growing potatoes received a phone call from the commission to attend a meeting. We made sure everyone was aware of the issues before us. There is also a time to consolidate some of the organizations and we have proposed that idea to the organizations to consider.

**Chairman Gannon:** What do you think your biggest challenge is coming up in the next five to ten years? Mr. Muir: First, is the ongoing challenge that we have to make sure our consumers don't walk away from us. The healthy issue of potatoes is critical issue as well as growing our business outside of the US. The Potato Cyst Nematode stopped us from expanding our exports and imports but we think we are on the other side now. We could be the first area outside of Israel that has actually stopped the Nematode once it's been found because of the approach we have taken and the USDA has given us positive strokes as a result. The third area is the nature of our demographics. We have a strong loyalty from people that are forty plus years. The younger set is less loyal and they seek their information from the internet so we are working on tools to launch into the internet.

**Chairman Gannon:** Do you have problems with transportation? Mr. Muir: We have lots of problems with transportation. The biggest consumption of Idaho potatoes is in Ohio, New York and Florida. We have to pay more just to get our product to the other side of the country. More than half of the consumers said they were willing to pay 20% or more for Idaho potatoes, and the only reason they would pay more is because of the brand. Idaho gets more refrigerated rail cars than any other state in the U.S. We now have a transportation committee that has evaluated some of these issues and because of that, we have been able to resolve some problems.

**Chairman Gannon:** Ms. Johnson, you are next.

Ms. Johnson is the legislative liaison for the Department of Agriculture: It is a great honor for us to be hosting all six of our international trade office managers here in Idaho this week. We have handed out a joint report between the Department of Commerce and Labor and our Department of Agriculture. General Woo-Joo Chang of Korea is our Idaho-Korea representative, Ms. Akemi Harima is our Japanese Trade Office representative, Ms. Prem Behl is Idaho's representative from the India Trade Office, Mr. Armando Orellana is Idaho's Mexico Trade Office representative, Mr. Eddie Yen is the State of Idaho's Asian Trade Office representative and Dr. Guoli Cao is Idaho's Shanghai Trade Office representative.

**Senator Schroeder:** We depend on workers from Mexico and we have had growers not able to harvest their crops because of immigration policies between the countries. What would you hope the outcome would be if the two countries could resolve their problems? Mr. Orellana: The Mexican and U.S. governments have realized that it is a must for the economy to create an avenue for immigration and temporary worker programs of that nature. The new Secretary of Foreign Relations of Mexico is a lady and she is able to see the problems in a very different way. She is not confrontational as the previous Secretary was in Mexico. For Mexico and for the U.S. this is a very important issue to resolve.

**Senator Stennett:** Eddie, I wanted to state for the record that you were able to keep the imports coming in to Taiwan, even with the scare of the Potato Cyst Nematode because of your relationships. Mr. Yen: Yes, this group was in Taiwan last spring and the American Institute in Taiwan, they don't call it the Embassy, but it acts as one more relationship with Taiwan. We always try to send the agency fresh fruit from Idaho and we kept this relationship strong with my office. The Potato Commission has been so supportive to our office by sending us information on potato studies. The mashed potato in a cup has become very popular in Taiwan.

**APPOINTMENT:**

**Chairman Gannon:** We have two gubernatorial appointments. Bill Flory, is a new appointee by the Governor to the Soil Conservation Commission.

**Senator McGee:** In my previous position with U.S. Senator Kempthorne, I

was the Senator's Agriculture advisor. I have gotten to know Mr. Flory over the last few years and he is very qualified to hold this position and has an extensive background in agriculture with the Wheat Commission and the National Wheat Growers Association. He is an outstanding Idahoan and I think he would make an excellent commission member.

**Senator Stennett:** There is usually a form that declares the party affiliation for the appointee. I would like to have a copy of the form that shows Mr. Flory's party affiliation. Mr. Flory: The Commission currently has three Republicans on the committee, Mr. Evans, Mr Grindstaff and myself. The two Democrats are Mr. Rush and Mr. Horsch.

**Chairman Gannon:** Next is Mr. J Morgan Evans.

Mr. Evans: It's a pleasure to be here with you today. I have served on the Soil Conservation Commission for five years, and this will be a reappointment. As a cattle rancher from eastern Idaho and former president of the United Cattle Association, it has been a pleasure to be a part of this commission. There are several things that are happening in all areas. It has been a very rewarding experience.

**Senator Stennett:** I appreciate the work that the commission does. It is one of the most important jobs within the state. The problem is there is just not enough money to do the projects. What can we do as a committee to put more conservation on the ground? Mr. Evans: One of the things that we do is work with the USDA agencies, starting loan programs and grant programs. We have provided funds and grants through other agencies around Preston, Idaho. I receive great personal satisfaction working with the commission.

**RS 16832C1 :**

**Chairman Gannon:** Thank you, Mr. Flory and Mr. Evans for coming. We will postpone the vote for these appointments for a future date. We will now discuss Senator Corder's RS 16832C1. This is a print hearing so we won't into great detail today.

**Senator Corder:** RS 16832C1

You will notice on the Statement of Purpose that this RS has a change, but it is an error. It is not a change and we will be correcting the Statement of Purpose. There are many things we must consider about Domestic Cervidae and they are in this bill. The legislature will need to consider what the policy is regarding this industry as viable in the state of Idaho. The industry has voluntarily agreed to pay the cost of extra fencing inspections if necessary. Five dollars per head has always been a part of this statute. Also, each single animal that comes into the state would be subject to the \$5 fee and will increase the revenue for the state. I urge your aye vote on printing RS 16832.

**Senator Stennett:** Can you explain to me your intent on page 2 where you speak about site-specific fence adjustments pertaining to ingress and egress on farms and ranches?

**Senator Corder:** There are occasions where snow bridges are a concern. Producers have to try and determine what is really needed. Some just remove the animals from that section and most likely, that is the case. In certain instances, if the animals are going to stay there, then the Department could determine another fencing policy.

**Senator Schroeder:** Why is the amount of the license on page 3, rather than in the licensing section on page 2?

**Senator Corder:** The \$200 is not a license fee, it is an inspection fee.

**Senator Schroeder:** Follow-up: Is there a provision for a license in this language but no fee for that license?

**Senator Corder:** The \$5 fee is per animal. There would be no specific fee for the license.

**MOTION:**

**Senator McGee:** I would like to make a motion that we print RS 16832.

**Chairman Gannon:** Motion:

Senator McGee has made a motion that RS 16832 is printed and Vice Chairman Heinrich seconded the motion. The motion is passed by unanimous voice vote to print RS 16832.

**RS 16745:**

**Senator Langhorst:** RS 16745

This RS has to do with game farming. Five of our six neighboring states have banned game farming. Wyoming banned game farming in the early 1980s completely and several members of the public have contacted me about a citizen's initiative. I don't think initiatives are the appropriate way to go. In Montana, there was a viable game farm population and they decided that putting everyone out of business is just too extreme. I believe RS 16745 before you addresses the risks and concerns of sportsmen and the public to the extent that we would minimize efficiently those risks. It places a moratorium on the creation of future domestic Cervidae farms in Idaho, prevents the importation of more domestic Cervidae into Idaho and bans shooter-bull operations. There is a \$5000 fine which is needed as a sufficient penalty because of the economic gain of the industry. I will close by asking that the committee send this bill to print.

**RS 16838:**

**Senator Langhorst:** RS 16838

This RS addresses what the folks are calling double fencing to keep wild elk out of domestic Cervidae pens. This bill requires two fences, six feet apart, and in case of elk, eight feet high.

**Senator Schroeder:** There is nothing in this bill to allow a second fence to be an electric fence?

**Senator Langhorst:** That is correct.

**MOTION:**           **Senator Schroeder:** I would like to make a motion that we print RSs 16745 and 16838.

**Chairman Gannon:** Motion:  
Senator Schroeder made a motion to print RS 16745 and 16838 and Senator McGee has seconded the motion. Motion passed by unanimous voice vote. If there is no further business before the committee, we are adjourned.

**ADJOURNMENT**   The committee was adjourned at 10:28 AM.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 6, 2007

**TIME:** 8:00 am

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Kelly**

**MEMBERS ABSENT/ EXCUSED:** **(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)**

**MINUTES:**

**Chairman Gannon:** The Committee welcomes Mr. Dar Oberding of the Idaho Grain Producers Organization.

Mr. Oberding: The Ninth Circuit Court has just made a decision that says we will not have field burning any longer in Idaho. The other possibility is to appeal the ruling but we have a very short time to do that. We could be facing the possibility this year of burning no fields in Idaho.

**Chairman Gannon:** I thought the field burning issue was the blue grass seed production. I didn't realize you relied so heavily on burning.

Mr. Oberding: There is a lot of field burning in southern Idaho. It takes away the tool of burning stubble fields of any kind.

**Vice Chairman Heinrich:** Are there any opinions as to how this would affect prescribed burns in forests? Mr. Oberding: Our lawyer thinks that prescribed burning is probably allowed, but we don't know for sure. The Governor's office and the Attorney General's office are all reading the court decision and are trying to figure out what it means.

Mr. Oberding: Wheat this year is the third largest commodity in Idaho. We also have an issue that we follow very closely, which is the warehouse department. I'm sure that some of you have received complaints regarding how this department is run. You will notice in your information that we have had over \$10 million in failure claims paid. This fund helps farmers pay their bills. We have had a lot of pay-outs over the years. The seed industry also has a fund. There are also different kinds of contracts which have resulted in failures as well.

**Chairman Gannon:** There have been situations where there has been mismanagement in a failed warehouse. Are the bankruptcies because of poor management or is it impossible to make it in the business? Mr. Oberding: There has been poor management to fraud and more. The Department now does a lot better job of analyzing the books within the warehouses. They can actually foresee a failure coming down the road within six months to a year. It is for the betterment of the industry. The industry has changed to where we have a lot fewer people in the



warehouse business. Warehousing is better, but we could still have some huge failures down the road.

**Senator Corder:** What percent of this \$10 million in claims paid is the total grower liability? Mr. Oberding: That would be based on a ninety percent payback of what they had coming. The Department tries to go back after these warehouses fail to pick up the ninety percent and the grower is allowed to go after the ten percent that they didn't get.

**Senator Corder:** I'm curious about the bonding reimbursement numbers and what value the bond has if it is not intended to cover the total loss? There is a significant difference between the bond reimbursement and the amount of claims paid. Mr. Oberding: The bond is a problem because the biggest bond we had was \$500,000. It cost the warehouses a lot of money. The bond only needs to be for the amount of storage capacity but the warehouses could be filling and emptying their warehouses twenty times during the year, yet they only have to have a bond based upon storage capacity.

**Senator Stennett:** When was the seed indemnity fund started? Mr. Oberding: it was established in 2002 and it has had zero failures since establishment. The fund balance, as of today, was \$1.863 Million.

**Senator Stennett:** Follow-up: ABT went under in 2000 and the seed fund was put together in 2002. Can you please tell me how that works? Mr. Oberding: The grain producers had a fund and a bank account that had about \$7-9 million in the fund and the \$2 million was a negotiated figure, but if it wasn't for this fund and the government loans, there would have been a lot of growers that would have gone bankrupt.

**Senator Stennett:** Were any growers hurt from the ABT fund that had paid into the fund? Mr. Oberding: Yes, they were hurt. Most of them were grain and bean growers. We also did some tightening of the law.

**Senator Hill:** Do you know what the balance in the fund is at the present time? Mr. Oberding: Yes, the balance of the fund, as of February 5, 2007, was \$1.986 million.

**Senator Hill:** The last failure on the schedule looks like it was in 2004. How are the warehouses doing now? Are they on more sound financial ground? Mr. Oberding: The warehouse department personnel was pared down and we used the interest to put a staff of seven in place. We also have computer programs now which can project cash flow. The need to audit those that have a warehouse license is necessary because they are handling a lot of money. Since we have put this practice in place, the warehouses are doing a lot better now.

**Senator Stennett:** Where does the Commodity Indemnity Fund money go? Mr. Oberding: That money goes back into the fund.

**Senator Schroeder:** Isn't an MPE contract just a vehicle for disaster? The grain markets are so competitive, what assistance does the federal

government provide to assure that people get paid? Mr. Oberding: MPE contracts are critical, especially in southern Idaho. There is not enough storage capacity and we need the ability to move grain through the system with only title changing hands. That is one of the problems with MPE contracts. A farmer actually releases their possessions without dollars coming back. We have tightened up restrictions on MPE contracts. They do have the tendency of sitting on someone's desk. In regards to your second question, it's well known in the business not to ship until you get your money.

**Chairman Gannon:** Would you please address the problems the industry is having with transportation and shipping the commodity out of Idaho? Mr. Oberding: Transportation is a big part and the commodity has to move several times. There was a study done on the movement of grain in Idaho and it was a very valuable tool. The grain industry has changed dramatically and the commission will be looking at updating this report at the next meeting.

I would now like to speak about the potential for the logen cellulosic ethanol plant going in at Shelley. They will have to bring in thirty megawatts of power to run the plant which is a pretty good sized block of power which they have contracted with Rocky Mountain Power. The one thing that will have to happen before logen comes here is a federal loan guarantee of \$300+ million. Cellulosic ethanol is a new system, and there are very few banks that will loan money on this type of program. That's why they have to rely on the federal loan guarantee.

**Senator Stennett: What is the net gain in fuel efficiency?**

**Mr. Oberding: Thirty megawatts probably costs \$50 but I would have to do the math on that and get back to you.**

**Chairman Gannon:** Do you agree that the indication for the technology of cellulose is anywhere from three to ten years out before it can be successfully operated for ethanol? Mr. Oberding: logen has a small plant operating now and they think they can produce a plant. The only issue is the money that is needed to build the plant. There have also been studies on how they will move the ethanol. logen thinks they can come into Idaho and produce it within the next few years with their process.

**Senator Schroeder:** With respect to the cellulose, in the Canadian plant, do you feel we have verification that the process is actually working?

Mr. Oberding: Yes, we have had a number of growers that have seen the plant run and have also seen the finished product. It takes a lot of technology to upgrade.

**Senator Corder:** Is there a difference in the types of straw in regards to one being less efficient than another? Mr. Oberding: Barley straw was the better straw. If you start using cornstalk, for instance, it will take a totally different bug to break it down.

**Senator Stennett:** How long does it take from the import of the straw bail to the output of the ethanol? Mr. Oberding: I think it's about four or five

days with a lot of water.

**Chairman Gannon:** Thank you. Next is Mr. Blaine Jacobson, Executive Director of the Idaho Wheat Commission.

Blaine Jacobson: You should have received a brochure from the Commission which contains the annual budget information. The activities of the Commission is carried out by the penny and a half tax on all of the wheat that is sold in the state. It generates about \$1.3 Million a year and we have been pulling down our reserves each year. We are working on our 2008 budget and, at some point, we will be moving the tax back to two pennies a bushel. That should break us even. In 2006, 1.2 million acres were harvested and the yield was 75.3 bushels per acre. Half of our customers is domestic and half is exported. Last year, soft white wheat prices were at a ten-year low but this year, we are at a ten-year high in the space of a year. Our wheat export market has been declining because more acres are put into corn and soy beans. There are a couple of charts regarding rail transportation. When there is competition, the rail rates stay low, but when the competition is low the rates are high. The two biggest issues facing Idaho wheat growers are fertilizer and fuel and it continues to be a concern. Next to those issues is water and that effects the whole state.

Senator Schroeder: How important is the Port of Lewiston in respect to the marketing of wheat? Mr. Jacobson: About half of our wheat is exported and nearly all of that goes through the Port of Lewiston. The railroad creates their pricing models based on the next lowest cost alternative which is road transportation.

**Senator Hill:** Would you explain the process of increasing the tax assessment in 2008? Mr. Jacobson: The enabling legislation from the food commission allows the tax to be set by the commissioner up to two pennies per bushel.

**Senator Corder:** Would it be ok if we passed a law that said your growers received one hundred fifty percent of their variable costs?

Mr. Jacobson: In other words capping them at that level or setting them at that level? From a growers perspective, they are in a position where they can't pass costs along to anyone, so they are stuck.

**Chairman Gannon:** Thank you Mr. Jacobson. Now we will hear from Stan Boyd of the Idaho Wool Growers Association.

Mr. Boyd: Grain prices are at a ten year high, as was just mentioned, which drives lamb prices. You should have the annual report. Our budget is not large. The Sheep Commission, which was the first commission created in Idaho as the regulatory animal health agency for the sheep industry, contracts with the Department of Agriculture to have the state veterinarian as their commission veterinarian. The Idaho Code authorizes the Commission to collect assessments for several different programs. There are no fees on livestock itself, but we collect our fees on the wool. The Idaho Code allows the Sheep Commission to contract with the Idaho

Wool Growers Association for the actual running of the promotion program. The sheep industry in Idaho contributes about \$100 million to Idaho's economy.

**Senator Hill:** Regarding the huge decreases in wool production over the years, why has it gone down so much? Mr. Boyd: The wool was valuable years ago but now meat is in much demand. Here in the United States, our wools are medium wools. The finer wools are from outside the U.S. The number one loss of the Idaho Sheep industry was to predators, such as the wolf.

**Senator Stennett:** How can we help to enforce the federal H2 program? Mr. Boyd: The problem is bringing sheep herders in from other countries by contract and then the herders not fulfilling that contract by finding other work that pays more. The federal government is not interested in persecuting the herders because they are too busy keeping terrorists out.

**Vice Chairman Heinrich:** Do you have a separate budget for animal damage control funds? Mr. Boyd: That is all under the Idaho State Animal Damage Control Board, which is a part of the Department of Agriculture. It amounted to about \$800,000 total of which \$400,000 comes from federal dollars. **I can certainly bring you the exact numbers.**

**Senator Schroeder:** If I had one thousand sheep, what kind of profit will I make per head for a year? Mr. Boyd, it depends on the year, but it can be about a dollar a pound per sheep. **Senator Siddoway** can answer that question better than I.

**Senator Siddoway:** The flock average is about one hundred twenty five percent lamb crop. The producers that exceed that percentage can do better, of course, but if you have a problem due to bacteria and antibiotics, like I did, losing close to half of your crop is the real difficulty. Of course, the wolf poses a real problem. Mr. Boyd: There was an RS that directed the monies from the wolf tags to specific locations. Upon delisting, the livestock industry may want to come in and amend the definition of a wolf to the list of black bear and mountain lion it can be filed upon. Then it will either be state monies or federal monies. That will be very difficult to determine when it comes to protecting livestock.

**Senator Schroeder:** The bill introduced in Resources yesterday by Chairman Stevenson, Representative Wood and myself provided that ten wolf tags are to be auctioned off and the group auctioning them can retain five percent of the earnings. The wolf is not yet delisted and Idaho takes much pride in managing their large carnivores, which is a responsibility given to us by the people of the United States. When we have situations where these animals kill livestock, we must depopulate the individuals, but we must manage the program carefully, as well as receiving funding for these programs.

**Chairman Gannon:** Motion:

Thank you Mr. Boyd. We now have minutes that need to be approved.

**Senator Stennett** moves to approve the minutes of January 11 and

**Vice Chairman Heinrich** seconds the motion with modifications. Minutes

are approved.

**Senator Schroeder:** Motion:

Moves that the committee send the nominee, Bill Flory, to the floor for a recommendation to approve his confirmation and **Senator McGee** seconds the motion. Voice vote approves the motion.

**Senator Stennett:** Motion:

Moves that the committee send the nominee, J. Morgan Evans, to the floor for a recommendation to approve his confirmation. **Senator Hill** seconds the motion. Voice vote approves the motion.

**Chairman Gannon:** When we first started out with the discussion on elk, I had asked **Vice Chairman Heinrich** to prepare a matrix to see where the bills overlap. You should have that now. We have the elk bills scheduled for next Tuesday, February 13, and Thursday, February 15. We will be in the Gold Room and will hear S104, S139, S172, S173 and S1074. There will be public testimony with a limited amount of time for each person testifying. For those traveling the farthest, we will have them testify first. We will also move the start of the Senate Agricultural Affairs for February 20 to 9:00 AM so members can attend the Future Farmers of America breakfast at 7:30 AM. If there is no further business, the committee is adjourned.

**ADJOURNMENT:** The Committee was adjourned at 10:30 AM.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 8, 2007

**TIME:** 8:00 AM

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, Corder, Hill, Siddoway, Stennett and Kelly**

**MEMBERS ABSENT/ EXCUSED:** **Senator McGee**  
(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)

**MINUTES:** **Chairman Gannon:** We would like to welcome the New Plymouth government class to our meeting this morning. We have RS16889C2 before us today presented by Senator Stennett.

**Senator Stennett:** RS16889C2

Several years ago, when we amended this section of the code to reduce a particular number of tires in one place, we created an opportunity to store up to fifteen hundred tires under tarps using tires to secure them. Gooding County was ground zero this last year for West Nile Virus. There were more incidences of West Nile Viruses in Gooding County than anywhere else in the state. I have spoken to the industry and we are going to remove the cap but will require that the tires stored will only be the sidewalls. This will minimize the pooling of water and lessen the possibility of mosquitoes.

**Vice Chairman Heinrich:** I move that we send RS16889C2 to print. Senator Hill seconds the motion. Motion approved by voice vote.

**Chairman Gannon:** The motion passes to send RS16889C2 to print. Students, you have just witnessed the process an RS (routing slip) becomes a bill. The RS is in bill form and it has a Statement of Purpose to tell you what the bill intends to do. It then goes before the Germaine committee and if the committee agrees, it will then go to the Judiciary and Rules Committee where it will be printed and assigned a bill number where it starts the process. In this particular case, this bill will come back to this committee at a later date and we will hold a hearing on it at which time we will take public testimony and then vote as a committee to see if we want to send the bill forward. Should we do so, it will go to the floor where the entire Senate will eventually debate and hear the bill and then, if it passes, it will go over to the House where it will basically go through the same process again. Now, Committee, I am going before the JFAC committee today because we will be taking up the elk issues and we won't have much time for business. I wanted to give you the opportunity today to discuss any input that you might have regarding what I might bring before JFAC regarding the life science facility. We also have the

agricultural analyst available to us today to discuss some of the issues that will be appearing before JFAC this year.

**Senator Hill:** I feel we should say something about endorsing or not endorsing the life science proposal. We have spent a lot of time on this, but I have some concerns from a financial standpoint. I feel comfortable endorsing it as far as the benefits to the state. I would rather leave it up to the Joint Finance Appropriations Committee to evaluate the costs.

**Senator Stennett:** This committee has been very diligent working on this issue. I have also spent some time with the industry folks and still have a bit of trouble wrapping my arms around the governance issue. I still wonder who will be ultimately responsible should this project not be successful. If we move the Cane Center, I wonder how that mixes if the Brucellosis-infected bison are in the same general area as dairy cows. To be able to give them an endorsement, I agree with Senator Hill, that the goal of developing an environmental program settles some of the issues, but I still wonder if we have dug deep enough.

**Senator Corder:** I support the concept as well, but there are still a couple of questions that need to be resolved. I feel good about endorsing the project and pursuing to get the answers to the rest of the questions. We still have some time to do that but if we don't endorse the project, we will be delaying it.

**Senator Kelly:** I too have concerns with the governance long term economic viability, but the concept seems like a good one. The location seems appropriate, but we know the other facilities considered are probably not viable long term. I would urge caution rather than speed on this one.

**Vice Chairman Heinrich:** I would like further consideration of the alternative use to maintain the Cane Center rather than to do an outright sale. Maybe there is an alternate use and having considered all other avenues, the concept of the research facility in the Magic Valley has a lot of merit.

**Chairman Gannon:** I think the consideration of the Cane Center is the fact that as real estate, it would probably bring more money than anything in the state justifies occupying.

**Senator Siddoway:** I want to support this but I have concerns about the Morrill Act. Why do we have to unwind the whole Morrill Act and try to affect the land grant colleges nationwide when all we need to do is release three hundred sixty acres of land over there? It would seem so much easier if we were just site-specific rather than overhaul the Morrill Act. Is the dairy industry going to have the ability to siphon off monies to go into that plant? The dairy industry is growing large and vital and some are not. If those monies are going to be taken from other research, the most important concern about the Cane Center would be that the diseased animals being tested would be in the same vicinity, but not in the same facility. It has to be in an area far enough away where disease



won't have the opportunity to be transmitted. I still struggle with the funding five, ten or fifteen years from now.

**Chairman Gannon:** We want to make sure that we don't put the dairy in the same position as the elementary and high schools located next to the current Cane Center. I appreciate your input on this and I will pass your reservations to JFAC. I have questions regarding a project that does animal research, where the milk may not be marketable because of testing. The research project will somehow have to compensate for that lost revenue stream.

**Vice Chairman Heinrich:** The project has a cash flow and if the research reduces the gross revenue because of testing, then the researcher would have to supplement the revenue to maintain an even financial flow.

**Chairman Gannon:** I appreciate your comments and I will convey the decisions we have made to JFAC. I agree with you wholeheartedly that we are probably not in the best position to comment on the commitment of \$20 million from the state right now, but I will relay these thoughts to the JFAC committee. And now, Ray Houston, the budget analyst for JFAC, will talk to us.

Mr. Houston: Each of you should have a budget spreadsheet prepared for JFAC with the Department of Agriculture on the first page and the Soil Conservation Commission on the second page. There are a number of columns starting with the 2007 appropriations through 2008 of the general fund and the total fund. If you also notice on the right, I have put together a motion for the kitchen sink. That represents everything that the Department of Agriculture is asking for. If you have any suggestion on these appropriations, please let Senator Gannon know before he visits our committee next week.

**Senator Stennett:** These appropriations are for the 2008 budget, so it will go into effect July 1, is that correct? Mr. Houston: That is correct. This would allocate money for the next year, allowing the Department to make the commitments to get the contracts out there. If you will notice, the noxious weed allocations are proposed larger for 2008. Also, you will notice that the Soil Conservation Districts' proposed allocations are also increased.

**Senator Hill:** Has the Governor taken out the inflationary adjustments as a matter of policy? Mr. Houston: No, they went through, on a case by case basis, but nothing across the board.

**Chairman Gannon:** Thank you, Committee, for your comments. We do have minutes for January 12, 2007. They have been corrected and do I have a motion to approve these minutes?

**Vice Chairman Heinrich:** I move to approve the minutes and Senator Hill seconds the motion.

**Senator Stennett:** I would like to request that within the minutes, the

request for a presenter to bring a member of the committee a report requested during the committee hearing be marked in bold for later reference. Request granted.

**Chairman Gannon:** If there are no other questions, the committee is adjourned.

Adjournment: The committee was adjourned at 10:15 A.M..

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 13, 2007

**TIME:** 8:00 am

**PLACE:** The Gold Room

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Kelly**

**MEMBERS ABSENT/ EXCUSED:** (Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)

**MINUTES:** **Chairman Gannon** called the meeting to order at 8:00 AM. Normally we would hear bills today individually, but because the elk issue has been very controversial, we will hear all four bills today and then we will hear testimony from those that have come the farthest. We will then hear the testimony from the sponsors of the bills on Thursday, February 15. If there are no questions from the committee we will begin.

**Senator Siddoway:** Before we get started I would like to declare that I have a conflict of interest. According to the Idaho Ethics Act, I must declare that I have an elk ranch with a hunting portion to it.

**Chairman Gannon:** Senator Langhorst, you may begin with your bills.

**S 1072:** **Senator Langhorst:** My bills, S1072 and S1073, have to do with game farming which, I feel, are a threat to our wild deer and elk and to an important part of our culture. It's perfectly fitting for us to place proper limits on game farming to protect those assets. These bills will eliminate canned or high fence hunting, stopping the proliferation of game farms while grandfathering those now in existence, stopping further importation of domestic Cervidae from outside the state and requiring a double fence to minimize contact between captive and wild elk and deer and to reduce the number of escapes. There are many diseases that are of great concern. Fair chase is why people revere deer and elk. These bills do not ban game farming but use the state's police powers to regulate a commercial activity. Game farms contribute about \$20 million to Idaho's economy. Traditional hunting contributes about \$350 million per year. Nobody feels good about hurting someone's livelihood. There are other ways of life at stake here, which are the economics of traditional hunting. Please consider two things: 1) the benefits from years of traditional hunting in Idaho 2) the benefits from a small amount of domestic Cervidae farms over the last few years.

**Chairman Gannon:** Please briefly outline what these bills will do.

**Senator Langhorst:** S1073 would place a moratorium on the creation of game farms and stop any further importation of other domestic Cervidae. S1072 would require double perimeter fencing to minimize nose to nose contact or escapes.

**Chairman Gannon:** Senator Schroeder, you are next.

**S 1004:** **Senator Schroeder:** I am here to discuss S 1004. This bill, if passed, places a moratorium on any new elk ranches or Cervidae farms until July, 2012. There are two reasons I introduced this bill: 1) if the committee can not reach a decision, it gives us time to reach a decision while not negatively impacting Cervidae operations 2) to assure that another incident like the one last year in southeast Idaho does not happen again. In a five year period, we can assess the industry and hopefully prevent that from happening again. Hopefully, if this bill allows us to successfully prevent cervidae from escaping, we may be able to lift the moratorium in 2012 or before, according to the legislature.

**Chairman Gannon:** Senator Corder, your bill is next.

**S1074:** **Senator Corder:** The bill before you, S1074, is the industry bill that has near consensus of the industry. The industry does not take the safety of the wild herds for granted. In fact, it is in their best interests to protect those wild herds. This bill wants to accomplish the protection of the wild herds as well as stabilizing an industry. S1074 does a number of things. First, the provision takes effect January 1, 2008. This time period is necessary for the Department of Agriculture to make inspections of the facilities, to identify problems and to give those ranches the opportunity to accommodate the new restrictions and requirements. It also allows the Department to establish fencing criteria, authority of inspection, revocation or suspension of licenses, establishment of a two hundred dollar fee per license for inspections, along with the \$5 per head fee, that exists now, which includes all imported animals.

**Senator Stennett:** Will you explain to me the net effect of changing the species name? **Mr. Chatburn:** The Cervus elaphus is a subspecies of the Eurasian Cervidae. This is just a clarification of terms.

**Senator Hill:** **Senator Corder,** will you explain what the consequences are if ranchers have their licenses revoked? **Senator Corder:** The consequences would be that the individual would be out of business.

**Senator Hill:** Is there some kind of time limit or reinstatement of the license? **Senator Corder:** Not in this language but it would be developed through the rules.

**Senator Schroeder:** We are changing the genus species of red deer to Cervus elaphus and we also have elk as Cervus elaphus. Are they the same species? **Mr. Chatburn:** According to the state veterinarian, they are the same species. The red deer is a subspecies.

**Senator Schroeder:** Why do we provide on page one that the

commencement date is January 1, 2008, rather than letting it go into effect July 1, 2007? **Senator Corder:** There is an emergency clause in the bill so it would go into effect July 1, 2007, upon signature of the Governor. The time is there to allow the Department to make the inspections.

**Senator Schroeder:** Are you saying that the Department has estimated it will take them approximately nine months to gear up to provide the licensing system? **Senator Corder:** That is the language that has been approved by the Department.

**Senator Kelly:** The word "ranches" is added to these provisions and the title has farms. What is the difference in ranches and farms? It seems confusing. **Senator Corder:** It describes the situations that are going on and is a more accurate description.

**Senator Siddoway:** Could you tell me if the time differential had to do with the development of the rules? **Senator Corder:** Development of the rules are certainly a part of it, as well as time for the Department to make necessary inspections, upon signature by the Governor.

**Senator Kelly:** When you talked about fencing, the Department would determine on a case by case basis the need of a particular farm or ranch. Would those particular requirements be put in the license and not the rules? And, what method is proposed to enforce the license requirements? **Senator Corder:** Those details must be worked out. It will be impossible to define what kind of fencing is needed in the rules or statutes, but would be attached as an addendum to the license. Those requirements may change from year to year, as problems occur.

**Chairman Gannon:** We will have more time on Thursday to ask questions of the sponsors. We will now take public testimony.

Fred Robbins, Rancher - Opposes 1004,1072,1073  
Eldon Golightly, Rancher - Supports S1074  
Lynn Rasmussen, Rancher - Supports ranches  
Glenna Rasmussen, Rancher - Opposes S1072, S1073  
Chad Colter, Rep. Shoshone - Bannock Tribes - Did not state S or O  
Rulon Jones, Rancher - Supports S1074 with apprehension  
Jasmine Yadon, Paralegal - Supports S1074  
Mike Kelly, Farmer - Did not state support or oppose  
Dr. Ted Rea, Farmer - Supports S1074  
Gail Ansley, Rancher - Supports ranching  
Pete Ellsworth, Maintenance Tech - Supports ranching  
Kristie Stern - Supports regulations  
Erin Miller, IEBA - Opposes S1004, S1072, S1073  
David Miller, IEBA - Opposes S1072, S1073  
Bill Kelly, Farmer - Supports S1074  
Haley Kelly - Supports S1074  
Robert Minter - Supports S1004, S1072, S1073  
Louise Stark, Outfitter - Supports farms, licensing, moratoriums

George Kelley, Farmer - Supports S1074  
Cathy Jones, Rancher - Supports regulations  
Dan Donthit, Rancher - Opposes S1004, S1072, S1073  
Charles Winkel, Mason - Opposes farms  
John Robison, Public Lands Dir - Supports S1004, S1072, S1073  
Matt Compton, IACAC - Supports S1072 and S1073  
Dennis Tanikuni, Lobbyist - Supports S1074  
Sharon Keifer - ITFG - No position but S1074 if amended  
Harold Armidon - Supports S1074  
Shane Koch - Opposes farming  
William Sorensen - Opposes imports and fenced hunting  
Nate Helm - Sportsmen for Fish & Wildlife Assn - opposes farms  
Bill London - Idaho Conservation Officers Assn - opposes farms  
Mark Bell, Broker - Supports S1073

**Chairman Gannon:** Thank you for coming and we appreciate your presentations to the committee. We will again take up this issue on Thursday at 8 AM and the Committee will call up those that have questions. We will deliberate and then we will hear motions. The committee is now adjourned.

**ADJOURNMENT** The committee adjourned at 11:10 AM.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

- DATE:** February 15, 2007
- TIME:** 8:00 AM
- PLACE:** The Gold Room
- MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Kelly**
- MEMBERS ABSENT/ EXCUSED:** (Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)
- MINUTES:** **Chairman Gannon:** We will be continuing with the elk bills today. We will not be taking any more public testimony because we have exhausted our list from Tuesday. The Committee will be taking questions and making motions on the bills.
- S1072:** Mr. Chatburn: The process that an individual would go through to import domestic Cervidae into Idaho would be to submit a health certificate to the Department with the animals listed showing negative test results and documentation from the health authorities where the animal originated. After verification, a permit would be issued.
- Senator Schroeder:** I must declare that I do business with elk ranches and I will be entering into discussion and voting on the proposed legislation. Would you tell us how many instances there has been where elk has escaped? Mr. Chatburn: There have been twenty seven escapes since 1998. They range from one animal to over sixty three animals, as happened this past fall in eastern Idaho.
- Senator Schroeder:** How many animals were not recaptured and who took the samples? Mr. Chatburn: Our records show that twenty five animals have status as unknown. Twenty of those are from the escape this past August. From the samples collected this past fall for RDG, all were collected by either Departments of Agriculture staff or Fish and Game staff.
- Senator Schroeder:** Does the Department know what an adequate fence is and does adequate mean it keeps all elk in all the time? Mr. Chatburn: The standards that are currently in the rules for fencing have been mutually agreed upon as an adequate fence to contain domestic Cervidae or Reindeer. I have yet to see a fence that contains all animals at all times.
- Senator Schroeder:** There is a question as to the Department having adequate money to monitor elk ranching. The cost of billed staff time is \$64,000 and the amount for Cervidae fees is \$28,000? Mr. Chatburn: That

is our best guess as to the amounts, using an average wage plus the hours turned in by the Department staff. All of the Department of Agriculture's current disease control programs use a combination of dedicated funds, general funds and federal funds.

**Senator Schroeder:** In the statutes, we have the language that discusses \$5,000 per occurrence. Is it correct to say a rancher pays \$5,000 for one elk escaping and another rancher pays \$5,000 for many elk escaping? Mr. Chatburn: An elk escaping is not a violation. Failure to report that escape and failure to maintain fences are violations. Sometimes, there are violations per animal, sometimes it is for violating a section of the rules. We could assess up to \$5,000 per animal, per violation.

**Senator Kelly:** How do you know exactly how many elk actually escaped? Mr. Chatburn: We know more than sixty three animals escaped. Forty three were harvested outside the fence and there were some that were retrieved. It could be twenty three or twenty four elk retrieved. Calves of the year are not required to be identified until December 31<sup>st</sup> of the year they are born.

**Chairman Gannon:** Have you ever had an occasion to reject a Cervidae import and have you had a positive test for TB, Brucellosis or CWD? Mr. Chatburn: Yes, but to be imported they need to be tested negative for RDG or registered with the North American Elk Breeders Association. We have not had a Cervidae in the entire state test positive for CWD, TB or Brucellosis in the last twelve years.

**Senator Stennett:** What is the Department's policy for tagging the animals at the ranches? Mr. Chatburn: The policy of the Department is for all domestic Cervidae to have visible identification. If we find that a farm is not tagging their animals or removing tags before harvest, the farms are given notices of violation and enforcement actions are conducted. The Department brought that legislation with the support of the Cervidae industry, a few were not in support.

**Chairman Gannon:** Brucellosis had recently shown up in a cattle herd. Did they get that Brucellosis from a wild animal? Mr. Chatburn: Yes, the tests determined that the only possible source was the affected wild elk herd in the immediate area.

**Senator Kelly:** Could you tell us the status of any enforcement action from the Department against the owner of the elk farm with the escape last fall and how many enforcement actions has there been from the Department? Mr. Chatburn: Any enforcement actions from the investigations of the events that occurred last fall have not been finalized. Since 2003, we have had four or five civil penalty actions, most ending in a settlement agreement. We inspect every Cervidae farm at least annually, and that involves the perimeter fencing, working facilities, as well as the inventory verification. The producers are required to submit an inventory to the Department and we go onsite and verify.

**Senator Kelly:** Can you explain why the provisions in the rules seem to



be different for the feedlots as they are for the Cervidae ranches?  
Mr. Chatburn: Yes, the feedlots bring in animals of unknown disease status that are being fed for slaughter only and tested at the time of slaughter. There has been Cervidae producers that have requested they bring in Cervidae for the same reasons, harvesting for meat only, and tested only at the time of slaughter. We have had no producers avail themselves of that section of the rule.

**Senator Siddoway:** I must declare that I have an elk ranch with a harvest component to it. I will be engaging in the discussion and voting on these bills.

**MOTION:** **Senator Schroeder:** I move that we send S1072 to the amending order.  
**Senator Stennett** seconds the motion.

**S1074:** **Senator Corder:** The Department of Agriculture has a long history of dealing with the problems of livestock. We need to expand that same ability to them to regulate the Cervidae industry. By adopting S1074, we give them that same ability to exercise their expertise and control over the Cervidae industry. If they would have had the authority that S1074 gives them, we may not have had the issues of last fall. The strength of this bill is to allow them to determine what each facility needs, site by site if necessary. The best regulations are still subject to working together. For these reasons I will be opposing the motion made by Senator Schroeder.

**Chairman Gannon:** We have a motion and a second to send S1072 to the amending order.

**SUBSTITUTE MOTION:** **Senator Kelly:** I move that we send S1072 to the floor with a do pass recommendation.

**Chairman Gannon:** Motion not seconded, motion fails.  
We will have a roll call vote on the motion to send S1072 to the amending order. Secretary please call the roll. The motion fails.

**MOTION:** **Senator Schroeder:** I move that we send S1004 to the floor with a do pass. **Senator Stennett** seconds the motion.

**Chairman Gannon:** There is a motion to send S1004 to the floor with a do pass and it has been seconded. Secretary will call the roll. The motion fails and the bill will stay in committee.

**MOTION:** **Senator Corder:** I move that we move S1074 to the floor with a do pass recommendation and **Senator Schroeder** seconded the motion.

**SUBSTITUTE MOTION:** **Senator Schroeder:** I move that we send S1074 to the amending order and **Senator Stennett** seconds the substitute motion.

**Senator Gannon:** We have a motion and a second to send S1074 to the amending order. Secretary will call the roll. The motion fails.

**Senator Gannon:** We have a motion by **Senator Corder** and a second by **Senator Schroeder** to send S1074 to the floor with a do pass.

Secretary please call the roll. Motion passes, S1074 will be sent to the floor with a do pass.

**MOTION:** **Senator Stennett:** I move that we send S1073 to the floor with a do pass.  
**Senator Kelly** seconds the motion.

**Chairman Gannon:** We have a motion by **Senator Stennett** and a second by **Senator Kelly** to send S1073 to the floor with a do pass. Secretary please call the roll. Motion fails and S1073 is held in committee.

**Chairman Gannon:** Tomorrow, I have the opportunity to go before JFAC. Based upon our discussions, my comments are going to be rather generic as it relates to the proposal to create a life science facility in southern Idaho to do environmental research. The concept seems to meet with the Committee's approval. I will mention that **Senator Stennett** has serious reservations about the financial viability of the project. We have the minutes of January 16 before us.

**MOTION:** **Senator Kelly:** I move that we accept the minutes for January 16 and **Vice Chairman Heinrich** seconds the motion. Minutes have been approved.

**ADJOURNMENT:** The Committee stands adjourned at 10:30 AM.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 20, 2007

**TIME:** 8:00 AM

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett and Kelly**

**MEMBERS ABSENT/ EXCUSED:** **(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)**

**MINUTES:** **Chairman Gannon:** You have a report of the Greater Yellowstone Interagency Brucellosis Committee in front of you this morning. It confirms that if there is any danger to the Idaho elk, it will be because of the Montana and Wyoming elk.

**MOTION:** **Senator Corder:** I move that the minutes of January 18 are approved. Vice Chair Heinrich seconded the motion. Minutes are approved by unanimous voice vote.

**Chairman Gannon :** I would like to welcome our new page to the committee, Rachael Hanson. She will be with us for the second half of this legislative session. We also have a group of FFA members from Kuna in our meeting this morning. In keeping with our theme of looking down the road, a key to agriculture is banking. At Senator Corder's suggestion, we have Idaho Bankers Association President and C.E.O., Dawn Justice and her guests.

Ms. Justice: We appreciate this opportunity to speak to the Senate Agricultural Affairs Committee. Our first speaker is Brett Tolmie, Vice President and Chairman of the Idaho Bankers Association Agricultural Committee.

Mr. Tolmie: I will be providing a general overview of agriculture in Canyon County from the perspective of a local banker. Recently, there has been a migration from traditional crops to one of forage and special crops in Canyon County and surrounding counties. There are five contributing factors. There has been an increase in operating costs such as fertilizer, chemical, fuel and labor costs. Contract prices for seed commodities have been stagnant. The lack of available contract labor at critical times has created problems. An influx of dairies has increased the demand for forage crops. Residential growth in rural areas has reduced overall farm acreage. The bottom line is that growers tend to migrate toward crops that will maximize return within acceptable risk parameters. Over the last six years, I have witnessed productive farm ground being sold for residential and commercial development. It creates a challenge for local

growers.

**Senator Kelly:** Do the growers you deal with own their own land?

Mr. Tolmie: It is about half and half. Most of the growers will own half their land and rent out half.

**Senator Stennett:** What has happened to the land values and the effect that has on the area? Mr. Tolmie: It has made it very difficult for farming operations to expand. With the push of residential growth, it has put a premium on the price of ground.

**Chairman Gannon:** That doesn't make it very viable for farmland. Mr. Tolmie: No, that is correct, it does not.

**Senator Siddoway:** How much of the bank's portfolio is in agriculture and is it growing or shrinking? Mr. Tolmie: In my area, we don't see an influx of new growers into the industry. There are cost barriers involved that makes it difficult. We would like to see more agriculture growth but if there is change, it's changing from one crop to another.

**Chairman Gannon:** Is it true that if the world market would accept roundup-ready sugar beets, there would be a drastic change in the market? Mr. Tolmie: There were roundup-ready beets grown in eastern Idaho and we saw a further decline in available labor force in the agriculture industry. With that change, there will be a decline in the cost of production of growing an acre of sugar beets.

**Senator Corder:** What do you see for Idaho ten years from now?

Mr. Tolmie: I think what Idaho needs to do is find ways to allow the young grower to be introduced to the industry at a lower cost, and I don't have the answer to that. Ten years from now, we will be in all the small communities and we will be helping the small farmer as well as our competitors. Agriculture is the backbone of this area.

**Senator Kelly:** Consolidation is occurring in the crop and seed businesses. How do you view that from a risk standpoint?

Mr. Tolmie: I work with row crop farming, and in the past, we have seen operations getting bigger; now we see the operations getting smaller. There are opportunities for expansion in some operations but I really cannot speculate on that.

Ms. Justice: Next is Dick Graves, Vice President and Senior Commercial Loan Officer for D.L. Evans Bank in Jerome. Mr. Graves: I appreciate the opportunity to speak to you today specifically focusing on dairy, beef cattle and sugar beets. The Magic Valley has changed considerably with the growth of the dairy industry. Many of the dairies relocating to this area decided to work with the local banks and that put the banks in a very good position to offer ample financing for their operations as well as meeting their other agricultural needs. Feed for the dairy industry has provided other opportunities for other farmers with the benefit of higher prices for feed crops. The beef cattle industry has been a stable force for many years. Plenty of ground for grazing and abundant feed supplies made

beef cattle a good fit. The only problem lies in the meat processing facilities closing down. This seriously cuts into the ranchers' margin as the transportation and processing costs increase. A crop that has been the backbone of our area is the sugar beet. A major change in the sugar beet industry will happen in 2008 with the approval of roundup-ready sugar beets. The yields were comparable to non roundup ready sugar beets. And in closing, the water situation on the east Snake River plain is a constant and very real concern. We have never seen the availability of water so threatened.

**Chairman Gannon:** Have you denied any loans because of the water issue potential? Mr. Graves: No, I have not denied any loans because of the water situation.

**Senator Heinrich:** Do you take into account the revenue and margin of returns or do you also look at the equity in the total assets? Mr. Graves: We consider the equity and we try to combine that with the cash flow.

**Senator Corder:** Where do you see Idaho going and is there something the state can do to help you get there? Mr. Graves: We will see that agriculture is as much a factor in the economy ten years from now as we do today. We see some large ranch operations changing their ground into recreational opportunities and the dairy industry is growing and there is a demand for organic milk and other products. Agriculture will always be a major factor in the state of Idaho and in our banks.

**Senator Schroeder:** What do you see out there with the water situation? Mr. Graves: We need to get something that we can make decisions on and it would be nice if the Supreme Court would give us something to base decisions upon.

**Chairman Gannon:** We have a couple of ethanol plants proposed to come our way. Have you discussed that situation yet and what it may do to the Magic Valley farming? Mr. Graves: We have talked about it and it is still a large unknown. The displacement of other crops by corn concerns a little at the present time. We hope it is a viable option the farmers will have to grow higher priced corn. It can cause problems to the wheat industry and the dairy industry. There will be pluses and minuses and until it's a stable force in the valley, it continues to be an unknown to us.

Ms. Justice: Next we will hear from Chad Dance, Senior Vice President and Manager of the Bank of Commerce in Idaho Falls. Mr. Dance: It's my pleasure to be here today. Eastern Idaho banks provide a vital role in the success of agriculture by financing operating costs, machinery purchases and land purchase for farmers and ranchers. It has been more difficult to show agriculture repayment margins on farm and ranch budgets because of the rise in energy and other related costs.

Recent marketing trends include consolidation of marketing efforts by forming alliances. Growers have banded together to guarantee adequate supplies for larger sheds. In 2005, the United Potato Growers of America was organized. Their goal is to look at the demand and assist the

growers in the supply side of the equation. For malt barley, we are seeing better contracts being offered this year with the increased pressure from higher feed grain prices. There is more competition for malt barley and we are seeing more acres going to feed barley where requirements are not so strict.

Land values have increased at an average rate of six point three percent. A higher increase of sixteen point one percent from 2004 through 2006 was noted because there was more land transition from agriculture to recreation and development uses. The rate of increase above the inflation rate is a concern to us as bankers, because the income produced from the land will not keep up with the value increases. The farmers and ranchers will not be able to produce enough income from the land to service the debt. I am concerned that there are fewer and fewer young farmers. The cost of equipment and land make it very difficult to get started and the established farms have to leverage their equity just to grow and provide for future generations. The cost of water is a huge concern and the question of water rights is always at the forefront of this industry.

**Senator Siddoway:** Does the banking industry think increasing the cost of potatoes from ten cents to fifteen cents, which is an additional fifty one dollars an acre, is a good idea to promote their products? Mr. Dance: We do not take a position on that but more promotion is good for the industry.

**Senator Kelly:** You spoke about pressures from development as well as recreational uses, what are the recreational pressures? Mr. Dance: In the summer grazing areas, such as Riggs, Teton Valley and Swan Valley, land and ranch prices are very high. For a rancher to buy summer grazing tracts, it becomes very difficult for ranchers to compete with that.

**Senator Stennett:** What is the value of a thousand-acre farm in Jerome County? Mr. Dance: The acreage right now is in the four or five thousand dollars an acre range. One thing driving the price in Jerome County is the demand of farm ground for residential development and some acres are going in the ten thousand dollars an acre range.

**Senator Corder:** Where do you think Idaho will be in the next few years given the change in eastern Idaho along with the recreational impact? Mr. Dance: Agriculture does have a bright future. The potato industry is positive and the growers are trying to adjust to the market. The average production for an acre of potatoes in 1965 was two hundred thirty sacks and now the average production is around three hundred sixty plus sacks per acre. The growers have become much more efficient. The demand has not kept up with the supply but they are working to rectify that. The family farms are expanding and the family generations come in as laborers and managers.

**Senator Stennett:** Have you noticed if anyone is using the conservation easement tax credit? Mr. Dance: Yes, there are some easements in our area. The landowner is rewarded and the ranch can be leased at market

rates so that the rancher can continue to raise cattle on the property.

**Senator Schroeder:** With respect to water, what would you like to see happen? Mr. Dance: I would like to see everyone to have ample water. All the growers given water rights in the last twenty years should be able to use them.

**Chairman Gannon:** Thank you for your valued input. If there are no other questions, the committee is adjourned.

**ADJOURNMENT:** The committee was adjourned at 9:25 AM.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 22, 2007

**TIME:** 8:00 am

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Kelly**

**MEMBERS ABSENT/ EXCUSED:** None  
(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)

**QMINUTES:** **Chairman Gannon:** Harold Johnson, Vice President of the Idaho Aqua Culture Commission will be our first speaker this morning.  
Mr. Johnson: We are a new commission and we face some unique challenges. We have had fish surpluses in the past year but we are proud to say that everything we have raised this year has found a home. Our issues to the Legislature are water issues, the recharge of the aquifer, and how to fund those issues. We are all waiting on the decisions from the Supreme Court regarding the issue of water rights.

**Vice Chairman Heinrich:** Can any producer opt out of the program?  
Mr. Johnson: Yes, any producer can opt out.

**Chairman Gannon:** There is a proposal on the table now to cash out some of the water interests in Hagerman Valley. Will it put productive farms out of business? Mr. Johnson: It is optional if someone wanted to take that approach, but the Commission hasn't yet taken a position. There are a lot of challenges coming with the water issues.

**Senator Heinrich:** How much water do you consume? Mr. Johnson: Aqua Culture is non consumptive. It passes through us back to the river.

**Chairman Gannon:** There was a discussion a few years ago about recycling the water. What has been done with that concept?  
Mr. Johnson: The Department of Water Resources has done some studies but there was some discussion where they may not have individuals on top pump it until it comes through the hatcheries and then back up to the dairies to the land for use. The cost of pumping is always another thing to consider.

**Senator Corder:** How is the alligator business? Mr. Johnson: That business is doing all right but there was an issue of West Nile Virus which caused a setback a couple of years ago.

**Chairman Gannon:** Our next speaker is Michael Becerra, Director of the Food Quality Assurance Lab.



Mr. Becerra: We have two crises this year which creates a need for the lab to exist, unfortunately. We analyzed 31,000 food samples this last year. There were allegations of Furadan use in an onion crop and we worked hard to release that crop for sale. We analyzed 849 samples in less than six weeks. We anticipated a loss in our budget but we actually broke even by picking up an extra program by monitoring air for pesticide drift.

**Senator Kelly:** Can you explain what happened with the onion problem?

Mr. Becerra: There was a report to the Department that there was illegal use of Furadan on onions. As a result of that, there was an investigation by FDA and ISDA as well as the Oregon Department of Agriculture. We had to test the entire onion crop in this growing area for Furadan. There is no legal use of Furadan on onions. Now the Idaho onion growers have a tainted reputation because of some farmers using this pesticide.

Laura Johnson: Currently, we are in the final stages of wrapping up the investigation and in the case of Furadan, one of the things that we have talked about is that the chemical manufacturers have not gone forward because Furadan takes longer for the residues to diminish on onions than it does on other crops. In our opinion, it will never be approved to be used on onions. There are other alternatives for onions that are approved.

**Senator Kelly: Can you keep me informed as to the findings on that investigation? Ms. Johnson: The investigation, enforcement action and negotiations with the growers will be completed around April. We will make sure that the committee receives this information.**

Mr. Becerra: We have samples of the Potato Cyst Nematode, The lab was set up on July 19 and were told to expect about 15,000 samples a year. As of last week, we had analyzed about 31,000 samples. There have been seven fields that have been identified as "PCN contaminated" and hopefully, that is all. Having a false positive is devastating to the grower so we have to be very thorough with our samples.

**Chairman Gannon:** How did you find twenty-two people qualified to do this type of work? Mr. Becerra: The lab in New York sent us people from the Golden Nematode lab, word-of-mouth and part timers from the college of Southern Idaho. Idaho potatoes should be acceptable everywhere in the world again, hopefully.

**Chairman Gannon:** Next will be the Farm Credit Services with Rod Endow, Manager/Vice President and Steve Miller, Dairy Relationship Manager. Mr. Endow: We are the largest single agriculture lender in the nation as well as in the northwest. In 2006, we refunded about \$27 million in interest refunds to our stockholders. We are a co-op and it is one of our strengths. Senator Corder was one of our local advisors a few years ago, serving on our Board of Directors. We pride ourselves on requiring that our loan officers have an agricultural background. We have a Young Beginning and Small Farmer Program and Minority Loan Program where we have lent out about \$113 million.

**Senator Gannon:** Do you anticipate getting involved in the renewable energy field? Mr. Miller: We have gotten involved through our corporate syndicate loans and through participation with other farm credit systems throughout the nation. We have not directly funded one but we are participating in some to minimize the risk.

**Senator Corder:** There are not very many programs that help young producers to start in the farming programs. What are some of the barriers that keep young farmers from starting? Mr. Miller: Funding is a major problem. It is not so much in the land purchase but it's more on the operating side.

**Chairman Gannon:** Our next speaker will be Kyle Hawley, President of the Idaho Association of Soil Conservation Districts. Mr. Hawley: The districts are made up of elected officials. There are either five or seven supervisors on each board. There are fifty-one districts throughout the state. The strategists solve local, state and national issues. They rely on local and state funding sources. Funding comes from the counties with the only statewide delivery system. The animal feeding operation in the north-central part of Idaho receives support from the Idaho Department of Environmental Quality and the Idaho Soil Conservation Commission. Next will be Eric Bastian, Supervisor and Division Director on the Franklin Soil and Water Conservation District in Preston Idaho.

Mr. Bastian: I will be giving a report on the program for Rocky Mountain Power, a division of PacifiCorp. PacifiCorp came to us a few years ago and because of some of our other successful programs, we were asked to bid on the Irrigation Energy Savers Program. It is designed to help our irrigation customers in several ways such as equipment exchange. We cover twelve counties on the eastern side of Idaho. By exchanging pump equipment parts, it saves energy and power. PacifiCorp has assured us that this program will continue through 2007 and hopefully it will go through 2008 and years after.

**Senator Stennett:** What is PacifiCorp's incentive to the farmers?

Mr. Bastian: Exchanging new parts for drains, nozzles, pump parts, gaskets and then the water goes back through their systems. There has been millions of dollars in savings with this program.

Lynn McKee, Vice Chairman of the Ada Soil and Water Conservation District is the next speaker. Mr. McKee: Ada County has experienced some issues in the last few years. In Ada County, there are some of the best farmlands and some of the highest valued crops grown in the state. Now the lands are for sale and there is a new kind of crop in this area. The biggest chunks of land that have been bought up are in Ada and Canyon Counties, where 40 Percent of the population of Idaho exists and 80 Percent of that population is in these two counties. We started getting a whole new group of customers and the traditional customers, such as farmers and ranchers, were disappearing.

The conservation districts have had to evolve or become extinct. The current board is made up a little differently than it was years ago.

**Chairman Gannon:** Our last speaker is Jerry Nicolescu, Administrator of the Idaho Soil Conservation Commission.

Mr. Nicolescu: The Idaho Soil Conservation Commission consists of five members who are appointed by the Governor and confirmed by the Senate. The Commission has ten key programs: Soil Conservation District Support and Assistance(SCD), Conservation Reserve Enhancement Programs (CREP), TMDL Watershed Planning and Implementation, Water Quality Program for Agriculture (WQPA), Resource Conservation and Rangeland Development Program (RCRDP), Conservation Improvement Grant Program (CIG), Upper Salmon Basin Program, Clearwater Focus Watershed Project (CFWP), Carbon Sequestration and Idaho OnePlan. (Please see power point presentation for details to all of these programs.)

**Chairman Gannon:** If there is no other business the Committee is adjourned. .

**ADJOURNMENT:** The Committee was adjourned at 10:20 A.M..

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** February 27, 2007

**TIME:** 8:00 am

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Kelly**

**MEMBERS ABSENT/ EXCUSED:** None  
(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)

**MINUTES:** **Chairman Gannon:** We will be discussing Representative Bolz's bills this morning, H0056 and H0156.

**H 56:** Representative Bolz: H56 has to do with the Idaho Rural Partnership Act. As a means of disclosure, I will tell you that when I was first asked to bring this bill forward, I was not a member of the Board of Directors, but I have since been appointed to that board. I do not gain any monetary benefit. The Partnership has been in Idaho for a number of years and it has been handled through executive orders of the Governor. The budget consists of all dedicated funds such as federal money or private donations. All we are asking is to put it in code which will allow us to do away with a lot of government interference in terms of local committees. The Partnership only goes into the communities to assist in bringing together the resources that the communities need.

**Senator Schroeder:** Rural schools are considering going to four day weeks and the loss of money as well. Is this something the Partnership will consider? Rep. Bolz: Mr. Dale Dixon of the Idaho Rural Partnership knows more about that than I do. Mr. Dixon: We will cover a variety of issues on a case by case basis from the environment to economic development. With education specifically, we helped to set up a partnership between school districts and cities to offer training to people in the high school arena looking to improve their job skills. We try and provide students in rural districts a wider range of options.

**Senator Schroeder:** Is it true that monies have been taken from the rural schools and given to the large city schools and the rural students are being starved of education? Rep Bolz: The Partnership Committee has a policy committee where Senator McGee and myself will be sitting and that will be the first thing on our agenda.

**Vice Chairman Heinrich:** Is there a connection between the extension service and your committee? Mr. Dixon: The extension service is an important partner in this organization. I just have been named to the College of Agriculture and Life Sciences Dean's Advisory Board last week because of our work in rural Idaho.

**Senator Stennett:** Has there been a minority party member appointed to the Rural Committee? **Representative Bolz:** My understanding is that there was some agreement made between the House and Senate leadership on that situation. There is no minority party member appointed to the committee at this time, but there always is an opportunity for that to occur.

**Senator Kelly:** On the 2004 executive order that is in place right now, who sets direction for the Partnership? **Mr. Dixon:** Under the legislation, the Board sets direction for the Partnership.

**Senator Kelly:** If it's not a self-governing agency, who are you reporting to? **Mr. Dixon:** The Executive Director reports to the Board of Directors which is comprised of state agency directors, federal agency directors, legislators and the private sector, along with the Governor's office.

**Senator Kelly:** Will you explain why the provision for the performance evaluations of state employees is in the bill? **Mr. Dixon:** This legislation mirrors the federal piece that is in the 2002 farm bill and the Governor's executive order of the language is consistent throughout so that is part of our directive to be sure all government is working in support of rural Idaho. That was part of the federal language.

**MOTION:**

**Senator McGee:** There is a member of the minority party sponsoring the bill and that is very important. I move that we send H 56 to the floor of the Senate with a Do Pass recommendation. **Senator Siddoway** seconded the motion.

**Chairman Gannon:** There has been a motion from Senator McGee and a second from Senator Siddoway to move H56 to the floor of the Senate with a Do Pass.

**Senator Corder:** Mr. Dixon, what is the advantage of this legislation when you have been functioning very well up to now? **Mr. Dixon:** The legislation gives the committee a level of stability.

**Chairman Gannon:** What is the process for executive orders on the changing of the guard? **Mr. Dixon:** An executive order basically is allowed to function on its own but this language allows it to function legally under the legislation.

**Senator Stennett:** Did the Idaho Rural Partnership have subpoena power with the Governor's executive order or is this new power? **Mr. Dixon:** We did not have that power before and the only way this power can be used is by unanimous vote given in the bill.

**SUBSTITUTE  
MOTION:**

**Senator Stennett** moved that H56 be sent to the amending order. **Senator Kelly** seconded the motion.

**Chairman Gannon:** We have a substitute motion and a second to send H 56 to the amending order.

**Senator Stennett:** I think the Partnership has done a great job, however if we are going to codify this in the future, there needs to be a minority representative enshrined in the law from the Senate and the House and we should have the executive director subject to Senate confirmation. There is still a question about the subpoena power.

**Chairman Gannon:** A roll call vote has been called for by **Senator Stennett**. Secretary, call the roll. Roll call shows that Senators Schroeder, Corder, Hill, Stennett and Kelly voted Aye and Senators Gannon, Heinrich, McGee and Siddoway voted Nay. The substitute motion was passed and H56 will go to the amending order.

**H 156:** **Chairman Gannon:** We now have before us H156.

**Representative Bolz:** This bill is changing the name of the Canola and Rapeseed Commission to the Oilseed Commission and redefining the definition of oilseeds. We added the Director of the Department of Agriculture as an ex-officio member to the commission. Because the number of growers in northern Idaho are more than southeast Idaho, it makes more sense to make the state of Idaho one district rather than two districts for elections to the commission. We are also asking that the commission members are nominated by oilseed growers in the state and appointed by the Governor. There are also changes within the statutes that are a part of the bill as well.

**MOTION:** **Senator Schroeder** moved that the Committee send H156 to the Consent Calendar. Senator Hill seconded the motion.

**Chairman Gannon:** We have a motion from Senator Schroeder and a second from Senator Hill to send H156 to the Consent Calendar. A unanimous voice vote to send H156 to the Consent Calendar passed. Mr. Mike Cooper, sponsor of H43 will now introduce the bill.

**H 43:** Mr. Cooper: H43 just corrects a technical error to Chapter 5 regarding seed potatoes on line 9. Chapter 10 no longer exists and the language has been transferred over to Section 22-2017 of the Plant Pest Act.

**MOTION:** **Senator McGee:** moved to send H43 to the Consent Calendar and Senator Hill seconded the motion.

**Chairman Gannon:** We have a motion by Senator McGee to send H43 to the Consent Calendar and a second by Senator Hill. A unanimous voice vote passed and H43 is sent to the Consent Calendar.

**H 44:** Mr. Cooper: H44 amends the Nursery and Florist Act. The license fee is twenty-five dollars and that money is sent to researchers for production and pest control methods. Some of the money is also used in the floral education for technology transfer once research is done and presented to the industry at large. Sections 20 through 23 do not specify any type of educational outreach for the funds and this bill is correcting that, starting on line 13.

**Senator Schroeder:** How much money annually does this fee raise?

Mr. Cooper: The account right now has about \$175,000. There are grants that come out of this account every year.

**MOTION:** **Senator Schroeder** moved to send H44 to the Consent Calendar and **Senator McGee** seconded the motion.

**Chairman Gannon:** **Senator Schroeder** made a motion to send H44 to the Consent Calendar and **Senator McGee** seconded the motion. A unanimous voice vote passed and H44 was sent to the Consent Calendar.

**H 58:** Mr. Cooper: H 58 changes some definitions to be consistent with the National Organic Program. The Department was accredited under the national program to certify organic producers two years ago, and we are moving to synchronize our law and rules to conform with their standards. Selling wild animals for retail sale is illegal and has been included in this legislation so that it cannot be submitted as organic. Under organic standards, livestock has to be under management from gestation to harvest.

**Senator Stennett:** Domestic Cervidae have been stricken because it is considered livestock in Idaho, as well as Bison. Why are we changing that technicality? Mr. Cooper: The National Organic Program standards state verbatim that domestic Cervidae and Bison will not be included as domesticated game, as well as Ratites.

**Senator Schroeder:** Mr. Cooper, could you give us an example of a situation that may arise regarding a wild animal being considered organic? Mr. Cooper: I will ask our program manager, Margaret Misner, if she would be willing to answer that question. Ms. Misner: There was a national debate if wild salmon could be certified as organic and the end result was that it could not complete the organic rules, such as having organic feed and be in a controlled environment, so it has to meet all the criteria to be considered organic. We are stuck with the national wording from the national organization.

**Senator Kelly:** Is it correct that the federal law includes within the definition of livestock, wild animals? Is there any other place in the state code that includes wild animals? Mr. Cooper: That is correct, this law came about at the federal level and the only way we can keep our accreditation is to include the language. It gives us the ability to reject livestock as organic and without it, it would not give us the ability to reject it legally.

**MOTION:** **Senator Schroeder** moved to send H58 to the Consent Calendar but his name should not be listed as a sponsor. Senator Siddoway seconded the motion.

**Chairman Gannon:** We have a motion by Senator Schroeder to send H58 to the Consent Calendar and a second by Senator Siddoway.

**SUBSTITUTE MOTION:** **Senator Hill:** moved to send H58 to the floor with a Do Pass so that there will be debate on this bill. Senator McGee seconded the motion.

**Chairman Gannon:** We have a motion from **Senator Hill** to send H58 to the Senate floor with a Do Pass recommendation and a second from **Senator McGee**. A voice vote passed H58 with a Do Pass recommendation.

**H60:**

Ms. Fick: As a public member of the State Board of Veterinary Medicine, with this bill we will be clarifying the definition of a Euthanasia Technician, establish a time frame for filing complaints, clarifying the renewal and reinstatement provisions, clarify prohibitive charges for services and general housekeeping changes.

**Senator Schroeder:** What is the time limitation for filing a complaint now?

Ms. Fick: Karen Ewing, our Management Assistant, will assist in answering that question. Ms. Ewing: We have no statute of limitations at this time.

**Senator Schroeder:** Does one year seem long enough to you to file a complaint? Ms. Fick: A one year statute is long enough because pet life in years is so different from a human life. If something goes wrong after they have been treated, it will happen sooner than one year. Also, technicians move from job to job frequently and the complaint needs to be addressed while that employee is still available.

**Chairman Gannon:** If there is a recurring issue that goes back three, four or five years and does that cover the one year statute? Ms. Ewing: Yes.

**Senator Kelly:** Was there any discussion to have the ability to file a lawsuit in district court and if that was an option? Ms. Ewing: The Attorney General's office crafted this language and I would have to speak to our attorney about that.

Ms. Fick: The next change is on page 9 through 11, regarding expirations, renewals and reinstatements of licenses and certifications.

**Senator Corder:** Is there a statute that allows the Board to have the authority to waive? You can't have rule without statute authority, so the statute can't be removed. Ms. Ewing: That change was brought forth by our Deputy Attorney General where it was set forth in rule but I would have to check with our attorney to clarify your question. The Board has the IDAPA Rule 46-0101-0112 Military Waiver.

**Senator Kelly:** It looks like the statute does give the Board the authority on page 8 and waiving fees would be within the scope of that authority and the fee schedule would be adopted by administrative rule.

**Senator Corder:** Do the requirements of a certified Euthanasia Technician allow law enforcement the right to euthanize animals that may have been involved in an accident rather than wait for a veterinarian and do they have them in their vehicles? Ms. Ewing: A law enforcement officer would not be carrying a controlled substance in their vehicle, but if it were an emergency and they were working with a veterinarian, they would have to get the drug.



**Chairman Gannon:** This doesn't give a blanket license to all law enforcement officers to be Euthanasia Technicians, is that correct?  
Ms. Fick: That is correct.

**Senator Kelly:** Regarding revoking licenses and the grounds for disciplinary action, if a complaint has to be filed within a year, if a client comes in on the three hundred and sixty-sixth day, the complaint will not be considered? Ms. Fick: Yes, that's correct, The details become vague after one year, but that doesn't mean they can't create a civil suit.

**MOTION:**

**Senator Siddoway:** I move that we send H60 to the consent calendar.  
Senator Schroeder seconded the motion.

**Chairman Gannon:** There has been a motion from Senator Siddoway to send H60 to the consent calendar and Senator Schroeder seconded the motion.

**Senator Kelly:** I have a concern about the one year filing and can't support the consent calendar.

**Senator Siddoway:** I then change my motion to a Do Pass motion.  
Senator Schroeder seconded that motion also.

**Chairman Gannon:** We now have a new motion to send H60 to the Senator floor with a Do Pass with a second from Senator Schroeder. A unanimous voice vote to send H60 to the Senate floor with a Do Pass recommendation passed.

**H78:**

Mr. Muir: The Idaho Potato Commission was formed seventy years ago this spring with a self-imposed tax to fund it. We have spent our reserves to try and maintain the level of spending that inflation has created. There is a great need for more programs to increase demand for Idaho potatoes. We presented evidence that our advertisements are working based on the media tests we have conducted. We are recommending that our cap be increased from ten cents to fifteen cents. When the tax is fully implemented, the amount will be about \$4 million. The commissioners will still have to vote to approve the increase in tax so the growers have to be supportive of the tax before it can be implemented. Lastly, we have taken this issue to our industry for several months and presented the need for the cap increase to all of the industry. I am here today to say that the industry does support this cap increase and we are hopeful that this committee will pass H78.

**MOTION:**

**Senator Schroeder:** I move that we send H78 to the Senate floor with a Do Pass recommendation. Senator McGee seconded the motion.

**Chairman Gannon:** We have a motion from Senator Schroeder to send H78 to the Senate floor with a Do Pass and a second from Senator McGee.

**Senator Siddoway:** This is going to be a very tough situation. There are small growers in my area and this tax will hit them the hardest. The two large growers in my district are split in their decision. I am supportive of your efforts but have some real concerns.

Mr. Muir: I understand your concerns. They are my concerns too. So often we don't look at marketing costs as part of doing business. The research we've done has indicated that the promotional efforts are a necessary part of building this brand. If we don't continue, five years from now the young farmers will be getting out of the business.

**Chairman Gannon:** The motion passed by unanimous voice vote to send H78 to the Senate floor with a Do Pass recommendation. We should be expecting our last two bills, H243 and H244, from the House shortly, but if there is no other business, the committee is adjourned.

**ADJOURNMENT:** The committee was adjourned at 11:00 A.M.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### Senate Agricultural Affairs Committee

- DATE:** March 1, 2007
- TIME:** 8:00 a.m.
- PLACE:** Room 437
- MEMBERS PRESENT:** Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Kelly
- MEMBERS ABSENT/ EXCUSED:** None  
(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)
- MINUTES:** **Chairman Gannon** introduced former Senator Laird Noh, District 24. **Senator Noh** stated that the Idaho Cattle Association, Idaho Farm Bureau, Idaho Forest Owners Association, Idaho Woolgrowers Association, Intermountain Forest Association, Land Trusts in Idaho, Rocky Mountain Elk Foundation, Sportsmen for Fish and Wildlife, The Nature Conservancy, and The Trust for Public Land are working together to save farms, ranches and timberlands from development. He said the original group started small a few years ago and has grown large today. They put together the Idaho Ranch Farm and Forest Protection Act. He said that in his 24 years as a state senator, the proposed legislation was drafted by the most extensive group of sponsors to come together to work on a piece of legislation.
- H262:** **Senator Noh** said he helped draft H262 which would provide a state tax credit to owners of agricultural and forest lands who voluntarily agree not to develop lands important to fish and wildlife. Tax credits would be given to landowners who voluntarily put their working lands in conservation easements. Under a conservation easement the land can be sold, but it can never be developed. Land owners can receive federal tax benefits for a conservation easement as long as the land is conserved in perpetuity. H262 would allow for a term easement of 15 years or longer, but the landowner would lose the federal benefit. An advisory committee will review each proposed use of the tax credit to safeguard against misuse.
- Senator Noh** stated that if H262 becomes law, landowners will receive a transferable income tax credit equal to 50% of the appraised value of their voluntary conservation donation, with a maximum credit of \$500,000.00. The maximum amount of tax credits authorized annually will not exceed \$3 million. They would be able to sell or transfer tax credits generating money for rural landowners who are often "land rich and cash poor." He continued saying that 12 states have a similar tax credit, including Colorado, California and New Mexico.
- Senator Noh** said the group will not aggressively try passing the legislation this session but their goal is to introduce the bill and open up

dialogue about the need to protect working farms from development. **Senator Noh** then introduced Suzanne Budge Schaefer representing the Nature Conservancy/Landowner Conservation Incentive.

**Ms. Schaefer** said she represents groups that support the Idaho Ranch Farm and Forest Protection Act. She said that Idaho's working ranches, farms, and forests provide benefits to Idahoans by sustaining habitat for wildlife, intact watersheds for clean water and the economy of local communities. Working ranches, farms and forests, and the benefits they provide, are being lost at a rapid rate. Many of Idaho's rural landowners are deeply committed to maintaining agriculture and forestry traditions. This legislation will provide a tax credit for the commitment of ranch and forest owners who make voluntary donations to conserve such lands.

**Senator Stennett** inquired if an out-of-state owner could sell or transfer the tax credits? **Ms. Schaefer** called on Will Whelan of the Nature Conservancy to answer that question.

**Mr. Whelan** replied that a voluntary conservation donation included the value of the charitable contribution made when taxpayers sell conservation easements to a qualified sponsor for less than its market value, as established by the taxpayers' qualified appraisal. Taxpayers who make voluntary conservation donations to a qualified sponsor will be allowed a non refundable credit against taxes. Taxpayers may only claim one tax credit per income year. The legislative intent is to target the tax credits on lands that will conserve fish, wildlife and plants.

There was also a reminder that legislation will not be actively pursued during the 2007 legislative session, but will be out there for people to discuss and think about during the interim and then brought back during the 2008 legislative session.

**ADJOURNMENT:** Chairman Gannon adjourned the meeting at 9:35 A.M.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

- DATE:** March 6, 2007
- TIME:** 8:00 AM
- PLACE:** Room 437
- MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Kelly**
- MEMBERS ABSENT/ EXCUSED:** None  
(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)
- MINUTES:** **Chairman Gannon:** The Senate Agricultural Affairs Committee was called to order at 8 AM and the secretary took a silent roll. Senator Gannon welcomed Jim McMillan and his government class from Homedale Idaho. John Chatburn was the sponsor for H205.
- H205:** Mr. Chatburn: H205 authorizes the Department of Agriculture to register animal remedies and charge a fee for that registration. The reason to bring this bill to the legislature is to develop an additional mechanism to provide dedicated funds to the Division of Animal Industries Livestock Disease Control and Tuberculosis Indemnity Fund. This division is responsible for disease surveillance and control on all animals in Idaho. Our costs have been increasing over the last few years. The primary source of dedicated funds is a twenty-two cents per brand inspection assessment on cattle and horses. Brand inspections are down more than \$41,000 from FY 2003 through FY 2006. From 2006 to 2007, revenues were down \$7,000 and at the same time, costs are escalating. The Department has been able to forestall similar increases by aggressive pursuit and acquisition of federal grants and cooperative agreements.
- Senator Hill:** Who has to register and have they ever registered before?  
Mr. Chatburn: The manufacturer has to register by either per product or per manufacturer, which will be determined by rule-making procedures.
- Senator Hill:** Is it correct that the retailer must register unless the manufacturer decides to do that? And, why the emergency clause?  
Mr. Chatburn: The burden is on the manufacturer to register the products. We patterned this after a law in an adjoining state. The emergency clause was requested by the Division of Animal Industries who would hope to have the rules completed and assessments collected prior to beginning fiscal year 2008. We will be forced to lay off field investigators if there is no mechanism to stabilize dedicated funds.
- Senator Hill:** According to the law, people will be in violation before they have time to register. Will the department be taking care of this issue?  
Mr. Chatburn: Yes, the Department will not be sending out any notes of

violation before the rules are set in place.

**Senator Schroeder:** In the bill, if a veterinary prescribes a product, they will not have to register the product. Is that in code or in the bill?

Mr. Chatburn: On page 2, Section 16, line 22, Exemptions from Registrations, if a product is compounded by an Idaho-licensed veterinarian, the product is exempt from registration. If a veterinarian was wholesaling a product to other veterinarians or retailers, then that product would need to be registered.

**Senator Corder:** What is the budgeting process like for ISDA? Why didn't you just ask for more money from the general fund? Mr. Chatburn: Our division receives general fund dollars for a variety of things, from disease control to nutrient management. We have requested general fund capital replacements over the last few years. Since 2003, all our capital funds have come from dedicated funds. The Department of Agriculture has not been successful at receiving general fund dollars.

**Senator Corder:** The Department's conclusion is that it has been the policy of the legislature for you to use the dedicated funds mechanism to increase the budget? How many other states use this mechanism?

Mr. Chatburn: Oregon. Other states charge fees like this as well, such as California and Florida.

**Senator Kelly:** I struggle with posing fees on these companies. Will these fees trickle down to those using these remedies? Mr. Chatburn: This fee is not unlike a fee charged for pesticides. The Department does disease control as well as other services. This is the most expeditious way to generate dedicated funding to continue the programs at the current level. The other source of dedicated funding is primarily horses and cattle. The trickle down affect may or may not occur.

**Chairman Gannon:** Do I understand correctly that the horses and cows are paying for the small animal regulated business? Mr. Chatburn: All of our replacement outlay capitol comes from dedicated funds and/or federal funds exclusively since 2003. All of our programs are a mix of dedicated funds, general funds and federal funds.

**Chairman Gannon:** We have several people to testify and the first person is Dr. Judy Rockett.

Dr. Rockett: I'm a veterinarian in southern Idaho and I am here on behalf of the Idaho Veterinary Association as their president. As a community, we are all in agreement that there is a need for disease control. The question is what is an appropriate method to raise funds? The drug companies were selected because they have deep pockets. The people that should pick up the cost of disease surveillance are the residents of Idaho. Another question with veterinarians deals with the proposed legislation and the effect it may have on veterinarians to practice medicine. We would like to see more homework done before it is passed into law.

**Senator Corder:** We don't see any drug companies here to testify against this bill. Have you ever lobbied for the general fund? Dr. Rocket: I have offered my assistance in our meetings, but I have never been asked to lobby for the general fund.

**Chairman Gannon:** What would you suggest the Department of Agriculture do to generate more funds if they don't generate funds through the pharmaceutical companies? Dr. Rocket: I understand that there are vacancies within the Department. Those funds could be used as dedicated funds. They have requested general funds through the regular channels and have not received any, so I would have to study the Department of Agriculture's budget to be able to say how they should go after funds.

Mr. Knight: I am Executive Director of the Idaho Cattle Association and President of Food Producers of Idaho. Both groups are in favor of H205. We would like to see more general fund money go toward disease programs but for some reason those monies have been blocked. Our companies are not excited, but they want to be at the table to make sure the Department is fully funded for disease control throughout the state of Idaho.

**Senator Hill:** Have you talked among your membership regarding ways to support this program rather than tax the manufacturers that create the solution for your success in fighting diseases? Mr. Knight: The companies are taxed already through brand inspections and health assessments. We also know that the companies will pass that cost along.

Mr. Butler: I am Wally Butler with the Idaho Farm Bureau Federation. The Idaho Farm Bureau Federation supports this legislation. We want to be involved in the rule-making process. We know the costs will be passed on and we are mindful of this but what the cost will be per dose is a question.

**Senator Corder:** Dr. Ledbetter, are the compounds made by the practicing veterinarian exempt? Dr. Ledbetter: Yes, the compounds created by the veterinarian in serving a client is exempt. The primary products from the manufacturer will be subject to the fees.

**Senator Schroeder:** Mr. Chatburn, what is the Department's budget? How did you come to the decision to create this legislation? Mr. Chatburn: Our division's budget is \$1.6 million. We came to this decision by the Governor's office strongly suggesting that we not ask for general fund monies.

**Senator Stennett:** If a veterinarian is a friend of mine and they create a home remedy, would it be subject to registration? Mr. Chatburn: If the veterinarian mixes the remedy and uses it, it is exempt but if he/she sells, offers or delivers the product in mass to others, that product will be subject to registration.

**Senator Siddoway:** Since the state has lost their Brucellosis free status, there has been a lot of effort put forth to rectify the situation. What kind of manpower has gone into that and where are we with the status?

Dr. Ledbetter: The USDA staff has visited us and if we have successfully passed their exams, we will regain our Brucellosis free status. I don't think it will cut back on our staff with the Brucellosis free status because there are still infected wild herds in the eastern part of the state and there will have to be manpower out there to watch over the cow herds. We believe there will be no drugs lost through this registration.

**Chairman Gannon:** We will be continuing with H205 at our next meeting, March 8, 2007. We now have a presentation from Dr. Jon Van Gerpen.

Dr. Van Gerpen spoke on Biodiesel for the Idaho Canola/Rapeseed Commission and is also from the Department of Biological and Agricultural Engineering Division, University of Idaho. (See the power point presentation in the committee handouts.)

Dr. Matt Morra spoke on Biofumigents, Soil and Land Resources Division, University of Idaho. (See the power point presentation in the committee handouts).

Diana Sessions of the Dairy Products Commission, Idaho Dairymen's Association, gave the annual report for the Commission and shared dairy products with the members. (See annual report and products line in committee handouts.)

**ADJOURNMENT:** **Chairman Gannon:** If there is no more business before the Committee, the Committee is adjourned. The Committee adjourned at 10 AM.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary



## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

**DATE:** March 8 , 2007

**TIME:** 8:00 AM

**PLACE:** Room 437

**MEMBERS PRESENT:** **Chairman Gannon, Vice Chairman Heinrich, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Kelly**

**MEMBERS ABSENT/ EXCUSED:** None  
(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)

**MINUTES:** **Chairman Gannon:** The meeting was called to order at 8:00 AM. Clive Strong, Division Chief, Attorney General's office will give an update of the Supreme Court Decision.

Mr. Strong: The committee has been provided with a copy of the Readers Digest version of the Supreme Court decision regarding the American Falls Reservoir District No. 2 v. IDWR, one of the more significant cases in Idaho Water Law. As an overview, the Director of Water Resources had issued some responses to delivery calls to the eastern aquifer and the Surface Water Coalition, consisting of a number of water districts in eastern Idaho, decided that it was in their interest to pursue an action to determine whether the conjunctive management rules were constitutional. The outcome of the decision was that the rules were constitutional and valid. This case means that it helps advance the cause of basic significance of the case. We are past the argument of what the governing legal principles are. It is now a question of how they might apply. Ultimately, this is a political question that has to be resolved through a combination of legal and legislative action and agreement with the parties.

**Chairman Gannon:** As it stands, we are going to be back to the hearing phase with the Director of Water Resources. Is the hearing going to focus on the decisions that the Director had made previously or is the slate clean with the new director? Mr. Strong: It's not clear right now, but where we stand presently is those decisions are on the books, and with the reversal of the Supreme Court decision, they remain in effect today. The next step will be for the parties involved to make their arguments about how the Department should proceed.

**Senator Stennett:** What percentage is domestic use considered? Mr. Strong: Irrigation represents about ninety five percent and all other uses are about five percent.

**H205:** **Chairman Gannon:** The committee now needs to proceed with H205.

**MOTION:** **Senator Corder** moves that H205 be sent to the Senate floor with a Do Pass recommendation and Senator McGee seconded the motion.

**Senator Siddoway:** I have had a great struggle with H205. I have received many calls from constituents regarding which way the Department is going. As long as our neighbors insist on feeding the wild elk, we will have Brucellosis problems for years to come, and we need money for the Department to address this issue, as well as the manpower to do the job. It's real hard to get drugs for the minor species, and we, as livestock farmers, have come up with concoctions and have been working with veterinarians, but this issue is very difficult. I want to support the Department for all its hard work, but I just cannot support this bill.

**SUBSTITUTE MOTION:** **Senator Schroeder:** It is important for the government to address problems but in this case, the government is having to raise money because they can't get it from JFAC. Creating a set of regulations to raise taxes is the worst possible reason to regulate. The motion was made that H205 is held in committee and **Senator Siddoway** seconded the motion.

**Senator Hill:** It appears that we need money for the Department. It seems to be a search for the least amount of sympathy for the source but big business just passes it to the consumer. The emergency clause just puts the companies to breaking the law and I can't see putting an emergency clause where people can't comply as soon as it goes into effect. **Senator Hill** supported the substitute motion.

**Senator Corder:** What are we prepared to offer as an alternative? The Department will certainly need the manpower to do the things they need to do and they will be going back to the Governor next July to ask for more money from the general fund. We need to send a letter to the Governor in support of a general fund appropriation to cover this program and similar programs in the future.

**Senator Kelly** supported the substitute motion but was extremely supportive of the Department and their needs. There was an issue with the emergency clause as well. There will always be additional requests for funds from the agency. Lets try and craft fees that apply to what the issues are.

**Chairman Gannon:** We will now vote on the substitute motion to hold H205 in committee. Secretary, please call the roll. The substitute motion is passed and H205 is held in committee.

**MOTION:** **Senator Schroeder** moved that the Chairman appoint a committee to meet with the Department of Agriculture and the JFAC Committee as representative to find money to fund needed services for disease control this year before the end of session.

**Chairman Gannon:** We have a motion from **Senator Schroeder** and a second from **Senator Siddoway** to form a committee to work with JFAC to try and find appropriate funds to keep the disease control program alive.

**Senator Corder** supported the motion to form a committee but we also need to send a letter to the Governor from the committee supporting the program.

**Chairman Gannon:** A unanimous voice vote passes the motion to create a committee to work with JFAC. We will now have a presentation from Gretchen Hyde of the Idaho Rangeland Resource Commission.

Ms. Hyde: Livestock are still a big part of Idaho's economy and our rural flavor makes Idaho unique and valuable. One of the big issues is funding by the University for land grant programs. Smaller departments on campus are going to be reviewed and cut and the Rangeland Ecology Management Department, probably the smallest department on campus, is somewhat hidden. Without this department, both the industry and the commission will be hurt. The science is needed for legal battles and presentations to various groups. So far, we have gotten a positive response. Idaho is still half rangeland and it still has to be managed. Education is needed to explain where rangeland is and where private property is. Many people don't know that red fence posts means "No Trespassing". There are many signs, posters and brochures to educate the public about private property and how to recognize it. With all the fires last year, it made people think how important rangeland is. The budget has been very consistent over the last ten years. Our priority this next year is to remove the misconceptions of landownership. There will be a public opinion poll through the University of Idaho Social Sciences Unit put together in the very near future. We are developing a display at the Snake River Visitors Center targeting the recreational users.

**Chairman Gannon:** There are minutes from February 1 that needs to be approved. Senator Hill moves that those minutes be approved and Senator Stennett seconded the motion. There are also minutes from January 30 that need to be approved. Senator Stennett moves that they be approved and Senator Heinrich seconded the motion.

**Senator Hill:** Regarding the elk issues, is there an update for the committee as to those issues?

**Chairman Gannon:** The Speaker of the House has some concerns about the bill, not about the basic concept of licensing. The concern is with the enforcement side and what could trigger the pulling of a license. His intent is not to kill the bill but to change it somewhat. That means a possible amendment and we are definitely limited for time at this point.

**ADJOURNMENT:** The Committee was adjourned at 9:20 AM.

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Senator Tom Gannon  
Chairman

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Connie Bosserman  
Secretary

## MINUTES

### SENATE AGRICULTURAL AFFAIRS COMMITTEE

- DATE:** March 13, 2007
- TIME:** 8:00 am
- PLACE:** Room 437
- MEMBERS PRESENT:** **Chairman Gannon, Senators Schroeder, McGee, Corder, Hill, Siddoway, Stennett, and Kelly**
- MEMBERS ABSENT/ EXCUSED:** **Vice Chairman Heinrich**  
**(Please contact the committee secretary if there are questions regarding attachments given by committee guests at 208-332-1330.)**
- MINUTES:** **Chairman Gannon** called the meeting to order at 8:00 A.M. The first bill heard was H243 from the Department of Agriculture regarding seed lab tests. The sponsor was Mike Cooper.
- H 243:** Mr. Cooper: Records of test results from private laboratories, out-of-state laboratories and the Idaho Food Quality Assurance Laboratory are kept confidential. This bill would extend the same confidentiality to test results from tests conducted at Idaho State Department of Agriculture Seed Laboratory on samples submitted by seed producers or seed companies. Lab results from submitted samples are not used in or as a basis for Idaho State Department of Agriculture enforcement actions. This laboratory does not do any testing for plant diseases.
- MOTION:** **Senator McGee** moved that the Committee send H243 to the Senate floor with a Do Pass recommendation. Senator Corder seconded the motion.
- H 244:** **Chairman Gannon:** It was moved and seconded to send H243 to the Senate floor with a Do Pass recommendation. Unanimous voice vote sent H243 to the Senate Floor with a Do Pass recommendation. Senator McGee will be the sponsor. H244 will now be introduced by the sponsor, John Chatburn, of the Department of Agriculture.
- Mr. Chatburn: Animal disease test results from out-of-state laboratories are kept confidential unless the test results indicate a state or federal reportable disease. This bill would extend the same confidentiality to test results from tests conducted at the Idaho State Department of Agriculture Animal Health Laboratory on samples submitted by veterinarians and animal owners. Test results would also be available if used in a regulatory or enforcement action or the Department determines that it is in the best interest of animal or human health to release the information.
- Senator Schroeder:** Why should farmers care about this kind of information considered being private? Mr. Chatburn: Farmers have the right to have this information kept confidential and so it is necessary to include this provision in the bill. Farmers that have their veterinarians

send test samples of their animals to out-of-state labs may be doing it to protect their privacy. At times, the newspapers will print that a herd may be infected and, unless that disease is a federal or state reportable disease, the test results must stay confidential unless the owner gives permission to have the information given out.

**Senator Schroeder:** Can you explain to me why the time frame of receiving back test results is so important to the farmer? Why are they not using Idaho labs now? Mr. Chatburn: When a test sample is sent to an out-of-state lab, it can take months before the results are sent back. Idaho labs are known to send test results back in a timely manner and the Department would like to have more testing done in state rather than sent out of state. Without the confidentiality provision in Idaho law, the Idaho farmers would rather send test samples out of state so that the confidentiality of the file is maintained. If there is a disease that should be handled by an Idaho veterinarian, the waiting period can be lengthy and it can create problems. Idaho labs want to keep the business in the state as well as protect the confidentiality of the client of the veterinarian. This bill will take care of that provision.

**Chairman Gannon:** Would you explain how the Department of Agriculture handles information from test results as they are received? Mr. Chatburn: The test results are sent back to the veterinarian and in turn, that veterinarian shares the information with the owner. If the results show that the animal has a reportable disease, that information is then shared with the Idaho Department of Agriculture. The owner does not have to share the results if the disease is not on the reportable diseases list. There are two lists, reportable diseases and regulated diseases. As soon as the veterinarian receives the results of a reportable disease, they contact the Department as soon as the owner knows. It is also the responsibility of the Department to contact the USDA when reportable disease test results are received.

**Senator Kelly:** What is a notifiable disease list? Mr. Chatburn: Notifiable diseases would be exempt from reporting. The reportable disease list is not exempt from confidentiality. There has been a problem with the West Nile Virus and bovine. It is not transferrable, nor is it reportable but the results are to be kept confidential unless it becomes a reportable or regulated disease. The Idaho Department of Agriculture and the USDA like to monitor where this disease is.

**Chairman Gannon:** Is there a large amount of business lost to other states because of the lack of a confidentiality provision in Idaho law? Mr. Chatburn: There have been a number of people that have told us that they choose not to use the Idaho labs. The actual number is not known.

**Senator Kelly:** The bill says that the results will be kept confidential unless the disease is reportable or regulated? Mr. Chatburn: The regulated list is reportable in Idaho but not to the USDA. The reportable list is reportable to both the state and USDA. As an example, Trichomoniasis is not a reportable disease to the USDA but it is reportable in Idaho, in case the Department needs to take specific

actions.

**Senator Kelly:** Is there a confidentiality provision in the rules?

Mr. Chatburn: No, but there needs to be a provision in the rule. There are two lists that have been given to each member that shows the Foreign Animal and Reportable Diseases and the Idaho Notifiable Diseases.

**Chairman Gannon:** We will now hear from those people wishing to testify for and against this bill. The first person is Lloyd Knight.

Lloyd Knight, Idaho Cattle Assn - Supports H244

Wally Butler, Idaho Farm Bureau - Supports H244

Mr. Naerebout, Idaho Dairymen's Assn - Supports H244

**Senator Hill:** Mr. Pisca, because you are the representative for the Idaho Allied Daily Newspapers, do you know of anyone who is against this bill?

Mr. Pisca: There were two bills in the House and the newspapers objected to the legislation. One of the bills was held by the sponsor. Tense negotiations did continue but finally they agreed with H244. They have chosen to not support or oppose this bill.

**Senator Hill:** Has there been any public outcry that you know of?

Mr. Pisca: None that we know of.

**MOTION:**

**Senator Siddoway** made a motion to send H244 to the Senate floor with a Do Pass recommendation. **Senator McGee** seconded the motion.

**Chairman Gannon:** Secretary please call the roll. H244 was passed and sent to the Senate floor with a Do Pass recommendation with **Senator Siddoway** as the sponsor. And now we will hear from Diana Caldwell of the Idaho Bean Commission. (See power point presentation.)

**Chairman Gannon:** There will be no more meetings of the Senate Agricultural Affairs except upon call of the Chair. If there is no more business before this Committee, the meeting is adjourned.

**ADOURNMENT:**

The meeting was adjourned at 9:20 A.M.