

**MINUTES
SOIL CONSERVATION INTERIM COMMITTEE
THURSDAY, DECEMBER 10, 2009
EAST CONFERENCE ROOM, J.R. WILLIAMS BUILDING
BOISE, IDAHO**

The meeting was called to order by **Cochairman Representative Ken Roberts** at 9:35 a.m. Committee members present included **Cochairman Senator Joe Stegner**, Senator Lee Heinrich, Senator Bert Brackett, Senator Kate Kelly, Representative Judy Boyle and Representative Liz Chavez. Representative Darrell Bolz was absent and excused. Staff members present were Brooke Murdoch, Keith Bybee, Katharine Gerrity and Toni Hobbs.

Representative Chavez made a motion to approve the minutes from the July and September meetings. **Senator Heinrich** seconded and the motion was approved unanimously by voice vote.

Others present included Representative Bert Stevenson, District 26; Terry Halbert, North Side Soil and Water Conservation District; Leon Slichter, Idaho County Conservation District and the Idaho Cattle Association; Dennis Tanikuni, Idaho Farm Bureau; David Ascuena, Idaho Association of Soil Conservation Districts, Division III; Sara Schmidt, Justin W. Krajewski, J. Morgan Evans, Joe Davidson, Richard L. Bronson, Bill Flory and Tony Bennett, Idaho Soil Conservation Commission; David Schmidt and Denis Feichtinger, Natural Resource Conservation Service; Richard Pentzer, Lewis Soil Conservation District; Ken Stinson, Cody Anderson and Kari Schwendiman, Latah Soil and Water Conservation District; J. Kent Foster, Kyle Hawley, Steve Miller and Wayne Newbill, Idaho Association of Soil Conservation Districts; Karma Bragg, Custer Soil and Water Conservation District and the Idaho District Employee Association; Kelly Nielsen, Idaho State Department of Agriculture; Ray Mansisor and Gina Millard, Owyhee Conservation District; Steve Becker, Lynn Rasmussen, Tracy Hill and Kyle Wilson, Nez Perce Soil and Water Conservation District; Paul Calverly, Heidi Patterson, Lynn McKee and Scott Koberg, Ada Soil and Water Conservation District; Dustin Hurst, IdahoReporter.com; Tim Hart, Valley Soil and Water Conservation District; Pegi Long, Power Soil Conservation District; Chris Simons and Larry Meyer, Twin Falls Soil and Water Conservation District; Rick Pearson, Balance Rock Soil Conservation District; Travis Jones and Darwin Olberding, Idaho Grain Producers; Claude Bruce, Payette Soil and Water Conservation District; Bonnie Butler, Governor's Office; Harriet Hensley, Attorney General's Office; Lyla Dettmer, Franklin Soil and Water Conservation District; JoAnn Taylor, Bear Lake Soil and Water Conservation District; Lynn Tominaga, Idaho Ground Water Appropriators; Vicki Lukehart, Weiser River Soil Conservation District; Kathy Merrill, Central Bingham Soil Conservation District; and Joe Twitchell, Elmore County.

Cochairman Roberts commented that there has been much discussion with those involved in this issue since the last meeting and there is now draft legislation for discussion. **Cochairman Stegner** stated that it was not his original intent to consider legislation that would eliminate the Soil Conservation Commission ("ISCC"); however, given the economic climate, the critical function of government is being reassessed. He added that in light of the economic crisis, all options are being examined, which lead to the cochairmen's decision to draft legislation reassigning the duties of the ISCC. He reminded everyone that interim committees do not introduce legislation; rather, they make recommendations to the

Legislature. He added that it may be that a decision will not be made today but that the draft legislation serves as a starting point for discussion. **Cochairman Stegner** added that this is a new direction for this Committee and, in his opinion, many levels of state government will have similar discussions in the coming year.

Keith Bybee, Legislative Budget Analyst, Legislative Services Office, was introduced to provide information detailing the budgetary impacts of the structural changes to the Idaho Soil Conservation District Law proposed by the cochairmen. His presentation included a detailed summary of the finance subcommittee discussions, a background on the ISCC's budget and its relationships with the conservation partners and a summary of the budgetary impacts of the draft legislation.

Mr. Bybee said that the finance subcommittee identified three issues. These include district allocation, audits and district consolidation. The subcommittee proposed a base funding increase from \$5,000 to \$7,500 and incentives for districts to raise more money from county commissioners. **Mr. Bybee** explained that there is a question of accountability that needs to be addressed and that legislation is currently being drafted for this purpose.

Mr. Bybee explained that when the ISCC was moved from the Department of Lands to the Department of Agriculture in 1997, the organizational structure remained largely intact. The move was intended to change the organization structure but the Idaho Association of Conservation Districts ("IASCD") and a majority of the districts insisted the structure remain. The foremost reason for this was due to the many partners or stakeholders involved in the process of soil and water conservation and a disruption in the current structure may adversely impact those interactions. In addition to the State, stakeholders include the Farm Service Agency ("FSA"), Natural Resource Conservation Service ("NRCS"), the IASCD, the 51 soil and water conservation districts and the Idaho District Employee Association ("IDEA").

Mr. Bybee noted that in 2001, the ISCC had its funding replaced with general funds in conjunction with the phase out of the estate tax. This put ISCC programs in direct competition with other agencies including public education, public safety and health and welfare.

Mr. Bybee said that over the years it became apparent that a guiding principle of authority is not present with regard to strategic policy and resource allocation decisions. Another issue is that the Director of the Department of Agriculture has the authority to appoint the ISCC administrator but no responsibility for submitting ISCC's budget to the Legislature and no oversight of ISCC's activities. **Mr. Bybee** stated that while there is remarkable cooperation between ISCC and its partners, the big questions of accountability, planning, organizing, staffing, directing, coordinating, reporting and budgeting are left open to interpretation and convenience. He said that the fundamental issue is the structure of the organization, that is, how each entity relates to the other.

Mr. Bybee discussed the proposed legislation which removes the ISCC from a standalone unit of government within the Department of Agriculture to a newly created division of the Department of Agriculture called the "Division of Resource Conservation." This new model fundamentally changes the way in which conservation partners interact because the authority structure is linear between the districts to the Division to the Director. This model would bring more accountability to executive agencies and would also move the Department of Agriculture into the lead in management. Projects would be driven by districts and federal partners and the IASCD would no longer receive state moneys.

Mr. Bybee explained that the new structure for the Division of Resource Conservation would include the RCRDP which implements the two revolving loan funds. He said that when Governor Otter announced holdbacks earlier this year, \$85,000 in personnel costs and one FTP was shifted to the RCRDP program, allowing ISCC to utilize \$85,000 from personnel costs as part of the holdback. This change would require legislative authorization. The Division of Resource Conservation would also keep the federal grant programs for the Clearwater Focus watershed and upper Salmon River Basin watershed programs. Finally, the general fund portion that would remain includes eight FTP, down from 21 FTP, \$413,400 from personnel costs, \$208,600 from operating expenditures and \$1,728,300 from trustee and benefit payments. These changes could result in a \$1,300,000 net savings to the general fund. According to **Mr. Bybee**, of the \$1,728,300 from trustee and benefit payments, \$800,000 would remain for district allocations. Finally, the IASCD would no longer receive state funds; rather, it would be up to the districts to supply dues to the IASCD.

Cochairman Roberts stated that the recommendation for a statutory maximum on match funds came through discussion with the districts after the subcommittee met. He said this concept is in the draft legislation.

Cochairman Stegner noted that the Committee was expecting a report from **Representative Bolz** on audit requirements that dovetails with other audit statutes and asked **Mr. Bybee** if he has any information relating to what that report may include. **Mr. Bybee** said the issue involves a \$100,000 cap and is an effort to help delineate responsibility for auditing the districts. **Cochairman Stegner** said it is his understanding that the idea is not to increase the audit requirements, rather to provide clarification. **Kelly Nielsen, Chief Financial Officer, Department of Agriculture**, said that the legislation involves changing limits as to when a full audit is required and when a review is required. He said the goal is that audit requirements be less burdensome for the smaller districts.

Senator Kelly cautioned that the Committee be mindful of the conditions attached to the receipt of federal funds when making these changes so that federal funding would not be jeopardized. **Mr. Bybee** said that the programs currently receiving federal funding would not be impacted.

Senator Brackett noted that the stakeholders discussed earlier did not seem to include the counties. In his opinion they are an important part of the partnership. **Mr. Bybee** said that was an oversight and that he tried to recognize them through the district match. **Senator Brackett** stated that these contributions should be recognized and asked whether the RCRDP would carry forward with the proposed changes. **Mr. Bybee** responded that the RCRDP would carry forward.

Brooke Murdoch, Research Analyst, Legislative Services Office, was introduced to highlight the primary changes included in the draft legislation. A copy of the draft legislation is available in the Legislative Services Office and online at <http://legislature.idaho.gov/sessioninfo/2009/interim/soil.htm>.

Representative Chavez asked how the draft legislation is different from what the ISCC is already doing. She asked whether it is just a matter of name changing. **Ms. Murdoch** said it is not exactly the same. She explained that the newly created Division does not have rulemaking authority as the ISCC currently does and the structure is different in that the Division's budget would be included in the Department of Agriculture's budget, rather than set separately as the ISCC's is currently.

Cochairman Stegner commented that this legislation places the Division directly under the Department. He added that it could be any department but they chose the Department of Agriculture. He explained that the ISCC is a rather odd occurrence in state government. Currently the state has an organization that receives direct appropriations from general funds that does not fall under the responsibility of a director of a department. There is no statutory authority for the Department of Agriculture to direct the affairs of the ISCC. It is an independent organization and typically independent organizations have a funding source and do not compete with things like education for funding. In his opinion, there is a legitimate question as to whether this structure needs to be reevaluated.

Representative Chavez asked how the districts will be represented within the Department of Agriculture. She asked whether the Department of Agriculture will be the umbrella pass through agent for the money that goes to the districts. **Cochairman Roberts** said that the intent was to create a nonregulatory division within the Department of Agriculture. In his opinion, the Division would be a funnel to collect the money coming from various sources and get it to districts in the most efficient manner possible. The idea is to continue with a nonregulatory mechanism to get money to the districts.

Cochairman Stegner added that the Division is charged with the same function of assisting the districts as is currently charged to the ISCC. He said that they also tried to devise a structure that would allow an upward flow of information from districts by creating an advisory board. He noted that there was a suggestion that the districts appoint the advisory board members and, while he understands this, he is not in favor of the idea because of the Department's need for flexibility. He said that the state does not normally allow this kind of direct oversight by something other than state government itself.

Senator Kelly noted that the proposal saves about \$1 million and asked from where that savings will come. **Cochairman Roberts** said that the savings will come from the actions of JFAC rather than from the language of the draft legislation. **Cochairman Stegner** noted that the savings come from the elimination of state personnel. Here, that would involve removing thirteen people from employment within the ISCC. He agreed that these changes would be made by JFAC and noted that this could be accomplished by reducing the appropriation to the ISCC instead of creating a new division. **Senator Kelly** sought clarification that the changes in the draft legislation do not actually result in savings, those savings would come from laying people off and that the intent of the legislation is to deal with accountability and structure. **Cochairman Stegner** agreed.

Senator Heinrich said that the duties and responsibilities of the Division and the Director of the Department of Agriculture are very vague and asked whether the duties would be further delineated by job descriptions or rules so everyone is clear about their responsibility. **Ms. Murdoch** said that the powers conferred upon the Division are exercised by the Director of the Department or by the Administrator of the Division. **Senator Heinrich** said he thinks this needs to be more specific. **Ms. Murdoch** added that Section 22-2718 sets forth the Division's responsibilities, specifies that the Administrator is required to perform statutory duties as well as those the Director may assign and grants the Department rulemaking authority. **Sen. Heinrich** stated that he thinks there needs to be a clear delineation between the Director's and the Administrator's duties. **Cochairman Stegner** stated that the draft gives the Department the responsibility and authority to promulgate rules. In his opinion, this is very linear.

Representative Chavez noted that in the draft legislation, the board members serve at the pleasure of the Director and asked whether there is any redress for a Director removing board members. **Ms. Murdoch** replied no, not as the legislation was drafted. **Representative Chavez** said she would like this to be more specific.

Representative Chavez asked why the draft legislation provided that all supervisors are required to be eligible voters in the district where they are elected or appointed. **Cochairman Roberts** explained that some districts have had nonresident landowners run for election and it was requested that this language, which is consistent with election law, be added.

Cochairman Stegner noted that changes made to the audit requirements in Section 22-2721(11) are going to be taken up by **Representative Bolz**. **Representative Stevenson** said that this statute was changed two years ago to allow smaller districts to obtain a financial review instead of an audit. He cautioned the Committee about federal audit requirements. **Representative Chavez** asked whether “small district” is defined in statute. **Cochairman Stegner** explained that **Representative Bolz’** proposal defines smaller districts based on revenues.

Representative Chavez asked whether the language in Section 34 will have any effect on districts. **Cochairman Roberts** explained that this language is just a technicality dealing with any property, office equipment and the like that the ISCC may own. **Ms. Murdoch** added that the language was included to deal with the disposition of the ISCC’s property should the ISCC no longer exist and that she did not believe that it would affect the districts. **Representative Chavez** said that she would like more information regarding this section.

Senator Heinrich commented that the term “eligible voters” is different from “qualified elector” and asked whether the term “eligible voters” in Section 22-2721 was used purposefully. **Cochairman Stegner** responded that this change was recommended by a specific district that requested that supervisors be eligible to vote, not necessarily that they be registered.

The Committee then heard public testimony regarding the conservation partnership and the draft legislation.

Mr. Nielsen, speaking on behalf of the Department of Agriculture, stated that the Department will do their best to implement the projects to get the conservation on the ground. He commented that the Department has a good working relationship with the ISCC. He explained that as a practical matter, the Department is capable of implementing the draft legislation and that the Division created in the legislation would be handled separately, as are the other divisions created in the Department. He noted that there are currently eight divisions under the Department and the budget for each is considered separately. He further noted that the ability of the Department to move funds from one division to another is restrictive as it requires legislative approval.

Cochairman Stegner asked whether **Mr. Nielsen**, as a financial officer of the Department, is aware of any other entity that receives direct appropriations from the general fund in Idaho that does not have a direct linear responsibility to a director of a department. **Mr. Nielsen** replied no and added that the Sheep Commission is similar in structure to the ISCC but that it has direct lineage to the Director of the Department of Agriculture.

David Schmidt, NRCS, was the next speaker. He paraphrased from a letter written by Jeff Burwell, State Conservationist who could not attend the meeting, discussing the value of the current conservation partnership that was formed in the 1930s. He commented that this partnership between federal, state and local participants has worked well for 75 years. Under the current structure, the NRCS has about 120 employees located in 38 field offices who provide direct technical assistance to Idaho's 25,200 landowners to identify, plan and implement conservation practices that treat soil, water, air, plant and animal resource-related problems. Co-located with NRCS are 60 conservation district employees and about 15 ISCC employees.

Mr. Schmidt explained that NRCS' budget over the past few farm bills has gone to 60% or more being tied directly to farm bill programs. This means that the money going out to farmers has increased by about 250% while salaries have reduced about 8%, so the partnerships have become very important. He added that many of their programs are spend it or lose it. Last year they turned back \$7 million of WRP funding that they could not spend. This money, in turn, went to another state. That money includes salary money. **Mr. Schmidt** noted that there have been times that the NRCS has been able to pull money that other states could not use due to partnership activities in Idaho.

Mr. Schmidt explained that abolishing the ISCC would affect technical assistance as well as grants and federal funding. The current structure at the 38 NRCS field offices provides customers with a variety of financial assistance programs. Last year, the NRCS financial assistance and easement programs provided almost \$49 million in Idaho.

Mr. Schmidt went on to say that this partnership provides a seamless service to landowners who come to the NRCS office to apply for and receive financial assistance. If ISCC employees are not at the local field offices to coordinate certain programs, WQPA for example, many landowners would not be able to install conservation practices with EQIP cost-share alone. NRCS employees would not be able to provide services to as many landowners or develop as many financial assistance contracts to obligate federal dollars. As mentioned earlier, unobligated federal dollars are reallocated to other states. Also, when NRCS returns these funds, a percentage of technical assistance funds are also returned. These funds pay for staff, office leases, supplies and the like. Once funding is reallocated it is difficult to get it back in Idaho.

Mr. Schmidt noted that AWEP funding is being used to implement the Comprehensive Aquifer Management Plan without Idaho general funds. Without the partnership, NRCS would not have received those funds and there would be less technical assistance available to treat Idaho's natural resources.

Mr. Schmidt said that the "take-home" message is that the current conservation partnership brings a very real value in terms of dollars, jobs and environmental benefits to Idaho and its citizens. NRCS would not be able to provide the current level of technical assistance nor would they be able to secure the level of funding without the partnership.

Denis Feichtinger, Economist, United States Department of Agriculture, distributed a handout titled "Assessing the Economic Impact of the Idaho Soil Conservation Commission Partnership with the Natural Resources Conservation Service (NRCS)." This handout is available on the State Legislature website under the Soil Conservation Interim Committee.

Mr. Feichtinger explained that the NRCS and the ISCC conservation activities have many beneficial impacts on Idaho's landscape. Another important outcome of this partnership is the economic impact of conservation programs on the Idaho economy. He said that the NRCS/ISCC partnership works to accomplish as much conservation on the ground as possible. The amount of cost share spent in Idaho through the USDA NRCS Farm Bill Financial Assistance (FA) and Technical Assistance (TA) Programs would be less if not for the conservation planning and implementation work of ISCC employees. His handout includes a chart illustrating the estimated value of ISCC Staff Contribution to the NRCS Program expenditures. It estimates the total economic contribution (State of Idaho), the Total Value Added (Wages, Profits and Indirect Business Taxes) at \$10,634,344.

Mr. Feichtinger said that for fiscal years 2010 through 2013, ISCC has contracted with the NRCS to implement two major conservation programs in Idaho. These two projects, funded under the Agricultural Water Enhancement Program (AWEP), a nationally competitive grant program, will bring approximately \$196,500 annually into Idaho in FA program money for each of the four contract years. Without ISCC's efforts, none of this money will flow into Idaho and would be spent elsewhere.

Cochairman Roberts commented that it is his understanding that a lot of the match money is generated by the State putting forth actual dollars or a position that is credited at a certain monetary value within the ISCC. He asked whether the money would still be received if those same positions are located within a division under the Department of Agriculture. **Mr. Feichtinger** replied yes, so long as the entity's role is the same as it is currently under the ISCC, such as conservation planning and conservation work. If that focus shifts, funds could be lost.

J. Morgan Evans, ISCC, addressed the Committee next. He explained that he served on the Soil Conservation Board for 20 years and has served on the ISCC for eight years. **Mr. Evans** said the ISCC understands that the State is in a financial bind and is therefore willing to make more adjustments and cuts. He explained that it takes a long time to learn about soil conservation programs and that there is a real need for experienced people. **Mr. Evans** said that, in his opinion, it would be a great mistake to eliminate the ISCC. The multiplier effects are much greater than any savings that would be gained from eliminating the ISCC.

Paul Calverly, Ada Soil and Water Conservation District, testified that the language in the draft legislation raising the base funding up to \$7,500 should say "no less than \$7,500." **Cochairman Stegner** said the assumption has been that the state will fund up to a certain level but they do not want to statutorily obligate a "not less than" figure that would bind JFAC. **Cochairman Stegner** said it was his intention to support the \$7,500 level of funding but that the Committee cannot guarantee that amount at this time. **Mr. Calverly** said he thinks the Committee should recommend the "no less than" language. **Cochairman Stegner** said he will vote to support a continuing appropriation from the State up to \$7,500, but that he will not recommend to the legislature that it bind itself to that figure every year. **Senator Brackett** agreed and added that JFAC does not raise money, it appropriates the money that is available.

Mr. Calverly moved on to discuss the \$40,000 cap of match funds that was added in Section 22-2727 of the draft legislation. He said that the resolution passed at their meeting contained no cap and, in his

opinion, the cap is not necessary and in fact, such a cap could cause Ada SWCD to lose a significant amount of money, as well as its district manager.

Steve Miller, President, IASCD, testified that there is no other example in Idaho government similar to the ISCC structure. He said that Washington, Colorado, Kansas and New Mexico are good examples of structure. He suggested that the Committee look at Washington's design as the board make-up solves accountability issues.

Mr. Miller said that it is possible to achieve budget cutting within the existing structure. He stated that in regards to the draft legislation, the Department of Agriculture is given authority to do whatever it wants with districts. He said that anytime a regulatory agency has had control over funding support for districts there has been a bad result. He commented that there is no way to regulate resource conservation in Idaho with the number volunteers that exist today and achieve the same leverage with regard to money.

Mr. Miller suggested that the new Division needs to be autonomous in its operations, much like the Sheep Commission. District supervisors must have a voice in what is happening to their programs and funding, otherwise we will end up in a similar situation to what caused this Interim Committee.

Mr. Miller urged the Committee to consider the impact of staff cuts. Most of the staff is positioned in the fields supporting the districts. This is in large part due to the fact that districts get funding that requires this staff. As districts grow, they become more self-sufficient and eventually will not need State funding. As the districts lose field staff, they lose leverage on those dollars. In his opinion, the State could lose millions of dollars by cutting staff.

Cochairman Roberts, referencing a letter from the ISCC, asked whether the IASCD would be supportive of an alternative method of selecting commissioners. **Mr. Miller** responded yes because the recommended selection process allows the districts to submit names to the Governor. **Cochairman Roberts** commented that the districts need to have a seat at the table and asked whether **Mr. Miller** thinks that this selection process sufficiently gives the districts a seat at the table. **Mr. Miller** replied that he believes it does and that this position had wide support at the IASCD meeting.

Kyle Hawley, Division II Director, Idaho Association of Conservation Districts, agreed with **Mr. Miller's** comments and added that the stronger the voice in the selection of ISCC members, the better. He commented that accountability must go both directions. He also said that the conservation partnership is an investment of State money and provides a far better return than almost any other investment.

David Ascuena, Elmore Soil and Water Conservation District and Director from Division III, commented that the current structure has worked fine until there was a conflict, now it seems that the Committee is trying to reinvent the wheel without resolving that conflict. He recommended leaving the ISCC intact and addressing the issues of conflict, oversight and accountability.

Mr. Ascuena said that in a resolution at the IASCD's meeting regarding the base funding, language provided for no less than \$5,000, giving the legislature a floor from which to work. He explained the need to keep incentives available for districts to obtain money from other sources. He agreed that the

\$40,000 cap in the draft legislation creates a disincentive for the larger districts to get more funding from the county. **Mr. Ascuena** would like to see a funding formula developed that would accommodate future fluctuations in the economy.

Steve Becker, Nez Perce Soil and Water Conservation District, commented that the language in Section 22-2718A of the draft legislation dealing with the Resource Conservation Advisory Board providing “serve at the pleasure of director” should be changed to “serve at the pleasure of the districts.”

Mr. Becker further commented that in Section 22-2721 of the draft, “eligible voters” should be taken out because it limits the pool of qualified supervisors. Also, language permitting the removal of supervisors by the Director should be replaced with reference to Section 34-1701, which deals with the recall of public officials. Finally, **Mr. Becker** agreed that the \$40,000 cap on match funds is too limiting for districts.

Senator Heinrich asked for suggestions on how to change “eligible voter” and whether it would be acceptable to change this to “eligible voter from Idaho.” **Mr. Becker** said he was not sure, but suggested “resident from Idaho.”

Kyle Wilson, Nez Perce Soil and Water Conservation District, said that the core issue is conservation. He agreed that some other entity can do the work of the ISCC but he does not think the State will like the result. He said that historically, strong commissions equal strong districts. He noted that whether this is a commission or a division, it is paramount that the districts be involved in the nomination process of the sitting members, as well as have a voice in the review of those members.

Bill Flory, ISCC, said that the ISCC, with the support of an attorney general opinion, had the right to require districts be accountable to the ISCC for the expenditure of public funds. He commented that the Interim Committee was formed to clarify the lines of responsibility. He said that in the last year the ISCC has had a 12% budget cut mostly from contract staff and another 7.5% holdback. He added that there could possibly be another 7% that will come from a project. Their budget is down to 18 FTPs, back to the same budget as in 2004. He said that with the next holdback, the ISCC will be down to \$3.3 million which is back to the same level as before Idaho’s growth years. In his opinion, there are a lot of options with regard to revenue without cutting FTPs. Finally, **Mr. Flory** emphasized the need for experienced grant writers.

Senator Kelly commented that what she is hearing is that the districts and the ISCC want to continue to receive general fund money even in the face of extreme budget constraints. The Legislature is going to be forced to choose between funding state troopers, teachers and health care and yet they want to continue to receive money over other needs. Now, given a proposal that provides greater oversight and accountability in the same way as is provided in other parts of government, the districts and ISCC are not interested; they want autonomy. **Mr. Flory** opined that conservation is a priority in Idaho. The draft legislation creating the Division of Resource Conservation saves about \$1 million but, in his opinion, clean water, clean air and the partnership are more important. He said he understands that the Legislature will be challenged with balancing law enforcement, education and other primary functions of the state. He cautioned the Committee to be careful not to dissect this system and take the limited tools that the State, federal and local partners have away from the volunteers. He said that the ISCC is willing to take cuts but that those cuts need to be across the board in other areas as well. **Senator Kelly**

commented that she recognizes the importance of what the districts and the ISCC have done for conservation in Idaho.

Cochairman Roberts agreed that the Legislature is going to have an incredibly difficult time trying to close an approximately \$400 million gap in the budget this coming year. **Mr. Flory** said that there may be no money left for anything but essentials but suggested the Committee look at all resources.

Scott Koberg, District Manager, Ada Soil and Water Conservation District, addressed the Committee next. He said that he has been involved with this conservation partnership for thirteen years and the ISCC is a main reason that he has stayed involved in this partnership. He acknowledged a statement made by **Cochairman Stegner** that the ISCC evolved into this structure and added that it evolved out of necessity. Without the independence of the ISCC, it would not be as capable of adapting quickly to changing circumstances and to move when opportunity or necessity arises. He thinks the system is feeling growing pains but that the Legislature does not need to dissolve the ISCC and that doing so would hurt the system.

Mr. Koberg stated that the partnership with an independent commission is what makes it unique, effective and valuable to the citizens of Idaho. He urged the Committee not to sacrifice the uniqueness for the sake of sameness. He commented that creating a division within the Department of Agriculture is more of a top down approach. He stated that grassroots efforts work for conservation and that the current structure of the ISCC enhances grassroots efforts of the districts. He added that this will not be the case if the ISCC is dissolved and replaced with the Division of Resource Conservation in the Department of Agriculture. He noted that Ada SWCD is not supportive of the draft legislation and if it is introduced into the germane committee, Ada SWCD will do its best to mobilize the 24 state legislators in Ada County to oppose it. Instead, he would like to see the Committee look at the ISCC's proposal for maintaining the ISCC with budget reductions as the new "strawman" proposal.

Lynn Tominaga, Executive Director, Idaho Ground Water Appropriators, spoke in support of the comments submitted by the ISCC. He thinks the changes proposed by the ISCC are fair and would resolve some of the issues among the districts and the ISCC. **Mr. Tominaga** cautioned the Committee to keep a few things in mind if it moves forward with the draft legislation. In regards to CREP, the State has an agreement with FSA for a commitment to keep three positions or \$375,000. The FSA is paying about \$2.5 million a year to keep about 19,000 acres in the Eastern Snake River Plain Aquifer dry. It is important to make sure these positions stay in place because the State will have access to an additional \$100 million as the program grows. In regards to AWEP, the ground water users, working with the Water Board, the Attorney General's office, Fish and Game and other private entities, were able to gain \$15.3 million over the next five years for water management programs, which will require technical assistance to get these practices on the ground. Without managing these projects, Idaho will see curtailment of ground water.

Mr. Tominaga went on to say that much of the conservation in Idaho is due to federal laws. Agriculture as a whole has been under attack to make farm practices mandatory. Currently, these practices are voluntary. The concern is that changes in the current commission structure and change in how money is used puts more pressure on the federal government to make these practices mandatory.

Representative Chavez asked for his suggested changes to the legislation. **Mr. Tominaga** commented that there is no mention of conservation in the draft legislation and that no one is given any conservation duties. He also said the legislation needs to be clear as to whether this will be an agency or a division. He expressed concern that the Administrator of the Division sits as the chairperson on the advisory board and noted that in most instances the board selects a chairman who is not the head of the division in which the board sits.

Representative Stevenson commented that it seems unfair to protect some agencies at the expense of others. Everyone should share in the burden. He expressed concern about programs such as CREP and AWEP and the technical support that may suffer due to budget cuts.

Heidi Patterson, Supervisor, Ada SWCD, explained that she was advised to consult with a conservation district because her neighborhood had a washout that caused problems every year. Within one year that washout was fixed using many different partners including NRCS. She added that she does not think the Department of Agriculture is the appropriate place in state government for the districts because of the urban development issues the districts are involved in that go beyond the scope of agriculture.

Joann Taylor, Bear Lake Soil and Water Conservation District, explained that although Bear Lake SWCD is a very small district with few funds, it is able to accomplish good work due to the ISCC employee located in that area. She noted that her district has a commitment from the ISCC employee to provide \$10,000 to complete a project that was granted by the federal government. If funding changes, that project could be lost.

Lyla Detmer, Franklin Soil and Water Conservation District, said that Franklin SWCD is considered a larger district. In 1998, they had \$20,000 and this year will be administering millions. She said that technical assistance from the ISCC helps with the grant writing process and that changes in the current structure could hinder grant proposals. She also commented that Franklin SWCD is not just involved in agricultural activities but is also involved with planning and zoning functions.

Kent Foster, Idaho Association of Soil Conservation Districts, commented that this Interim Committee has been a good process and everyone has learned more about how the partnerships work. He noted that most involved are not in favor of the proposed changes. Districts do not want to see dissolution of the ISCC as it is an important part of the partnership. In his opinion, the first priority is the field staff. Some staff has already been lost due to budget cuts and as a result, there could be problems complying with federal mandates.

Cochairman Roberts acknowledged **Mr. Foster's** commitment to conservation in Idaho, thanked him for his service and stated that he will be missed when he retires from the IASCD. He also recognized **Tony Bennett**, thanked him for his contributions to conservation in Idaho and noted that he too will be retiring in the near future.

Ken Stinson, District Manager, Latah Soil and Water Conservation District, commented that removing the ISCC as one of the primary entities that provides assistance to landowners, as provided in Section 22-2716 of the proposed legislation is a very significant statement from a manager's

perspective. He also encouraged the Committee to consider redirecting funds that are currently going to nonprofit agencies or private entities to fill the gap left in the general fund for technical assistance.

Karma Bragg, District Manager, Custer Soil and Water Conservation District and IDEA, asked whether this legislation is an elimination of the ISCC and 24 employees. **Cochairman Stegner** explained that the legislation does not address the elimination of employees directly, that may happen when JFAC addresses funding.

Ms. Bragg expressed concern and said that everyone involved is very passionate about soil conservation. She said that many times the partnership has stood between litigation, keeping farmers from going out of business.

Following public testimony, the Committee discussed the draft legislation and addressed the public's comments. **Cochairman Stegner** began the Committee discussion by saying that this is one of the toughest issues he has been involved in during his legislative career. He said that the comments he makes are not necessarily his view but are the view of people in administration in the state of Idaho and represent an attitude that has been expressed but was not aired today.

Cochairman Stegner commented that the one entity that has not been heard from during the meeting is the State of Idaho and, in his opinion, the State is a partner in conservation. The Legislature is responsible for every dollar that is appropriated and spent in the State and must answer to the taxpayers. He asked what the Governor's response should be to a situation where funds are mismanaged by a commission that he does not control. This is the situation with the ISCC. **Cochairman Stegner** referenced a Legislative Services Management Report from October, 2009 that deals with a private audit within the State that contains somewhat critical findings of the ISCC's money management. **Cochairman Stegner** again posed the question as to what the administration should do with an agency they do not control. Under normal circumstances, the executive branch has the option of coming down on an agency. Here, the Governor cannot hold anyone accountable because the ISCC structure is outside of the scope of the normal way business is conducted in Idaho. He agreed that the ISCC provides a benefit to some areas of the State but that it causes conflict in others. There are people in state government that think this needs to be rectified.

Cochairman Stegner reminded everyone that the Committee does not intend to take a vote today. He added that maintaining the status quo because it helps the partnership does not take into account the entire partnership. He said he is not specifically responding to any one person's testimony but felt a need to express an alternative viewpoint that was not represented.

Mr. Evans, in response to **Cochairman Stegner's** comments regarding the state audit, said that nothing criminal was found in that audit and that it was the ISCC itself that exposed the embezzlement. **Cochairman Stegner** acknowledged this and explained that he used the audit as an example of the fact that in any other management structure in state government there is the option of recourse against those who mismanage money in the public trust. The ISCC, because of its structure, is outside any such option.

Representative Chavez said she thought the Committee would get clarification of the issues today but that she is more confused about the partnership and relationships now than when she arrived. She

referenced an e-mail she received from the ISCC requesting district feedback on several good questions and expressed concern that of the 51 districts, the ISCC received responses from only twelve and that she, herself, has only heard concern expressed from eight districts.

Representative Boyle said that the districts need a voice in the selection of commissioners. In her opinion, the Governor does have a hammer because he appoints the commissioners. She also expressed concern that an appointed person, that is, an unelected person, has the authority to remove district supervisors.

Senator Heinrich commented that there is no question that the partnership serves a great benefit to the State but that there needs to be some accountability. He expressed concern that accountability be achieved without losing the benefit of local control and input.

Senator Brackett said he was glad the Committee did not take any votes today and appreciates time to reflect on the discussion and testimony. He expressed concern about putting a voluntary organization in with a regulatory agency. In the long term, he is afraid it will hinder producer involvement and chill volunteers from coming forward.

Cochairman Roberts commented that at the Coeur d'Alene meeting last year, there was a call to help resolve problems between the IASCD and the ISCC. He recalls **Representative Trail, Cochairman Stegner** and himself stating that, if communication between the IASCD and the ISCC did not take place, something unsatisfactory to both parties may transpire. He said that this is what is taking place now. He expressed concern that it has taken this long to get a letter of agreement from the parties.

Cochairman Roberts commented that he has been involved with conservation districts for many years and he will always choose nonregulatory and voluntary methods of achieving conservation. He noted that districts have one of the best track records in putting projects on the ground in all of government. He added that he is not opposed to creating a district consolidation incentive. If districts feel they would be better served by uniting their efforts, then they need to consider consolidating on a voluntary basis.

Cochairman Roberts said that there are questions to answer about the authority of the ISCC if it remains a commission. He understands the importance of technical assistance, especially in small districts, but said it might be necessary to look for assistance in a different way. He said that a district voice in the selection process of commissioners is vital. He agreed with **Representative Boyle** that voters should be the only people who are authorized to remove supervisors. He also agreed with **Cochairman Stegner** about accountability for funding and how funding is distributed to districts.

Cochairman Roberts finished by stating that he does not want to see funding for districts disappear, especially general fund money. He reiterated the importance of finding a solution to prevent that from happening.

The next meeting was scheduled for January 5, 2010 at 9:30 a.m.

The meeting was adjourned at 3:50 p.m.