

MINUTES  
**SENATE AGRICULTURAL AFFAIRS COMMITTEE**

**DATE:** Thursday, January 26, 2012

**TIME:** 8:00 A.M.

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Siddoway, Vice Chairman Smyser, Senators Corder, Pearce, Hammond, Vick, Nuxoll, Bock, and Schmidt

**ABSENT/ EXCUSED:**

**NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**MINUTES:** **Chairman Siddoway** called the meeting to order at 8:00 a.m.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Bock**, to approve the minutes from January 19, 2012. The motion carried by **voice vote**.

**Chairman Siddoway** introduced and welcomed a group of students visiting from BYU Idaho, Department of Agribusiness, led by **Dr. Stephen McGary**, Ph.D.. **Chairman Siddoway** gave notice to the committee that he would need to be excused from the meeting early to attend another hearing and would leave the gavel with **Vice Chairman Smyser** at that point.

**GUBERNATORIAL APPOINTMENT:** The committee will consider the appointment of **Gerald "Jerry" Trebesch** to the Idaho Soil and Water Conservation Commission. He is to serve a term commencing October 4, 2011 and expiring July 1, 2016.

**MOTION:** **Senator Vick** moved to send the gubernatorial appointment of **Gerald "Jerry" Trebesch** to the Idaho Soil and Water Conservation Commission to the floor with the recommendation that it be confirmed by the Senate. **Senator Schmidt** seconded the motion. The motion passed by unanimous voice vote. **Senator Vick** will be the sponsor.

**GUBERNATORIAL APPOINTMENT:** The committee will consider the appointment of **H. Norman Wright** to the Idaho Soil and Water Conservation Commission. His is to serve a term commencing October 4, 2011 and expiring July 2, 2012.

**MOTION:** **Senator Bock** moved to send the gubernatorial appointment of **H. Norman Wright** to the Idaho Soil and Water Conservation Commission to the floor with the recommendation that it be confirmed by the Senate. **Vice Chairman Smyser** seconded the motion. The motion passed by unanimous voice vote. **Senator Bock** will be the sponsor.

**Chairman Siddoway** passed the gavel to **Vice Chairman Smyser** for the consideration of pending rules.

**DOCKET NO:** **02-0420-1101** **Vice Chairman Smyser** invited to the podium **Dr. Bill Barton**, who is Administrator of the Division of Animal Industries for the Idaho State Department of Agriculture, and also serves as State Veterinarian. He is available to answer any further questions regarding the pending rule governing brucellosis, which was put on hold from the Agricultural Affairs Committee meeting on Tuesday, January 24, 2012.

**Senator Nuxoll** asked if anyone has objected to this rule. **Dr. Barton** replied that there were numerous outreach meetings that were well attended and they presented the temporary rule to and consulted with the stakeholders, and in all those discussions, there were questions, but no one went on record as being opposed to the rule.

**Senator Nuxoll** asked how many ranchers are affected who have their cattle outside of the area, but then have their cattle grazing on the area that would be affected. **Dr. Barton** answered that within the Designated Surveillance Area (DSA) there are about 62 to 65 resident herds. It's difficult to provide a firm number of commuter grazers" that go into the DSA because there is no health certificate nor movement certificate required that can be tracked. The Department has worked with the Bureau of Land Management (BLM) and Forest Service to determine which producers have allotments in the area and those who could be identified have been contacted to explain the rule and requirements. As of December 2011, the Department has tested 3000 head of cattle.

**Senator Nuxoll** asked how it would be if the producers did the testing and identification on their own instead of mandating it? **Dr. Barton** replied that would be difficult to determine. It's hard to say how many would do the testing or the individual identification on their own.

**Senator Nuxoll** asked for clarification on how ranchers in the DSA are required every three years to test cattle, and if this rule would make it easier for them because there wouldn't be as much testing. **Dr. Barton** explained that if a rancher did not move his age-eligible cattle out of the DSA, then yes, it would be less testing for him. The big difference as far as animal health goes is the surveillance that is done by change of ownership or movement testing, where animals are being tested as they leave the area so as to ensure they don't pose a risk to other in state cattle or cattle outside of the Idaho boundaries. A lot can happen to a herd of cattle in three years.

**Senator Hammond** asked **Dr. Barton** to remind the Committee of the consequences for the cattle industry and shipping them to other states if we do not pass this rule. **Dr. Barton** stated there are four states that implemented movement restrictions on Idaho cattle. Minnesota and South Dakota require testing for brucellosis within 30 days of import into their states for all Idaho cattle, not just those from within the DSA. They also have an individual identification requirement. Colorado and Nebraska stopped short of implementing testing requirements, but did implement an animal identification requirement so that all sexually intact cattle that have been within the DSA are identified prior to import into their states. **Dr. Barton** said he has heard from North Dakota, Kansas, Oklahoma, Nebraska, and Washington that they are contemplating the same requirements, and it's his opinion that other states will follow suit.

**Senator Hammond** asked **Dr. Barton** if it is his opinion that with the implementation of this rule, it will mitigate those concerns and create a better opportunity for commerce among Idaho and those states. **Dr. Barton** replied that it is his opinion and it has already been demonstrated with the implementation of this rule in May of 2011 when the states that were contemplating measures stopped from doing so. He said he is fairly comfortable that if the rule does not pass, other states would implement more import requirements.

**Senator Pearce** asked about the stipulations on the identification tags, as with a six month old bull calf, if it is a metal tag or if it's an ear tag. **Dr. Barton** replied that the way the rule is currently written, it specifies "official individual identification." Under federal and state rules, the official individual identification is consistent with the brucellosis vaccination tag in females, a silver USDA tag in any sex animal, a radio frequency ID (RFI) tag and in some states, trick tags and brands have been accepted, but those last two are up for debate on the federal level. **Dr. Barton** said he does not believe brands would be accepted with Idaho's trading partner states, because it does not "individually" identify an animal.

**Senator Pearce** asked at what point is brucellosis transmitted from elk to cattle, and if only bred heifers are tested, is the herd covered, and what about a six month old heifer calf. **Dr. Barton** replied that historically, the test eligible age for determining brucellosis infection has been in the eighteen month plus range. As the department has worked to eradicate the disease and done more intense surveillance in specific areas, they have found younger animals infected. Eighteen months of age has historically been when the disease will show up. In the last part of 2011, a herd was identified in Wyoming and one of the heifers was positive for brucellosis at eleven months of age. She could have been exposed at any time in her life. Brucellosis is one of those diseases that can be latent for a long period before showing evidence of being infected. It's impossible to determine exactly when the animal was infected, but younger and younger animals are testing positive.

**Vice Chairman Smyser** asked if any other guest would like to testify on this matter and **Wyatt Prescott**, Executive Vice President of the Idaho Cattle Association (ICA), approached the podium. He stated the ICA does feel this rule would be the best thing for Idaho cattle and the viability and marketability of its cattle.

**MOTION:**

**Senator Hammond** moved, seconded by **Senator Bock**, to adopt Rule No. 02-0420-1101. In discussion, **Senator Hammond** stated in favor of the motion, that while there is some concern about this rule, but it is his belief that the risk of not passing the rule versus passing it is much greater, and he has a great concern for the cattle industry not being able to ship cattle to other states if there is not cooperation with trading partner states. The motion carried by **voice vote**.

**DOCKET NO:  
02-0104-1101**

**Vice Chairman Smyser** introduced **Leah Clark**, Trade Specialist, Idaho State Department of Agriculture (ISDA), who outlined the pending rules governing the Idaho Preferred Program, which identifies and promotes Idaho food and agricultural products, with voluntary participation. This rule will provide product qualifications specific to forest products. It will create product definition and qualification criteria for lumber and further processed forest products. The rule was requested by the forest industry and was reviewed and approved by the Idaho Forest Products Commission.

**Senator Bock** asked for explanation of the underlying purpose for the rule. **Ms. Clark** explained that in the past, the program has had specific criteria for most products, such as defining what the product is and setting criteria for minimum amounts of included Idaho product. That information was missing and has now been added with this rule.

**MOTION:**

**Senator Schmidt** moved, seconded by **Senator Nuxoll**, to adopt Rule No. 02-0104-1101. The motion carried by **voice vote**.

**Vice Chairman Smyser** recognized and thanked **Representative Ken Andrus**, Chairman of the House Agricultural Affairs Committee, and his wife, for visiting the Senate Committee.

**DOCKET NO:  
02-0204-1101**

**Vice Chairman Smyser** introduced **Kevin Merritt**, Section Manager, Bureau of Weights and Measures, Idaho State Department of Agriculture (ISDA), who outlined the pending rules for Weights and Measures. The bureau's primary responsibilities are to test and inspect commercial measuring devices. This rule change is an annual update and incorporates by reference the new 2012 edition. This handbook is used by Weights and Measures officials, servicemen, repairmen and businesses that use commercial measuring devices. Updating to this edition allows uniformity throughout the western United States. A page delivered the book to **Senator Bock** for his review.

**MOTION:**

**Senator Schmidt** moved, seconded by **Senator Hammond**, to adopt Rule No. 02-0204-1101. The motion carried by **voice vote**.

**DOCKET NO:  
02-0303-1101**

**Vice Chairman Smyser** introduced **Ben Miller**, Agriculture Bureau, Idaho State Department of Agriculture (ISDA), who outlined the pending rules governing pesticide and chemigation use and application. The current rule requires professional applicators to be on-site for the entire pesticide application, which sometimes takes up to two days to complete. This rule provides that applicators return at least once every four hours to check on the application. The rule change is recommended by Licensing Applicator Advisory Committee. When the pesticide and chemigation rules were combined in 2000, an unintended burden was placed on licensed applicators by requiring them to be with the system from the time they turned it on until they turned it off. This also caused added expense to the farmers who have to pay the applicators for their time. The ISDA staff agrees that a change should be made to do away with the unnecessary, cumbersome and financial burden on the applicators and farmers.

**Vice Chairman Smyser** noted her appreciation to the department for their use of common sense in an effort to save the farmers money.

**Senator Corder** asked what documentation will be used to prove that the applicators were there every four hours. **Mr. Miller** said applicators are required to keep records on every application, and department inspectors do routine inspections with the farmer and applicator. **Senator Corder** asked how it will be verified that the applicator was indeed there at the time it was turned on and then four hours later, and throughout the 24, 48, 36 hour period. **Mr. Miller** replied that the applicator has to put down every time they came back to check the system, which would be found in the department's audit of those records.

**Senator Corder** stated that is a difficult task because it can be read what is on the paper, but unless someone is actually there on site when that four hour period elapsed, the department can't verify that for certain. **Mr. Miller** said it's not any different than any other application that goes on in the state, as that would be impossible to physically be at every one, but the department's history is to have that information required on the forms, and the department will fine and cite applicators for not keeping accurate records. **Senator Hammond** stated it is a similar situation for trusting what truckers put on their driving logs.

**Senator Schmidt** asked for clarification that in reviewing the rule, a sentence has been added to the rule for allowing the four hour intermittence, but that the sentence requiring presence has not been removed or edited. **Mr. Miller** said the Licensing Committee considered this but did not have any concern.

**MOTION:**

**Senator Hammond** moved, seconded by **Senator Bock**, to adopt Rule No. 02-0303-1101. The motion carried by **voice vote**.

**DOCKET NO:  
46-0101-1101**

**Vice Chairman Smyser** introduced **Karen Ewing**, Executive Director, Board of Veterinary Medicine, who outlined the pending rules of the State of Idaho Board of Veterinary Medicine. The proposed changes include removing the entire section on national examination eligibility evaluation to correspond with a 2011 statute change. The Idaho Board now contracts with the National Board of Veterinary Medical Examiners (NBVME) to determine applicant eligibility to take the North American National Licensing Examination.

The change also proposes to remove refunds of the original certification fee for Certified Veterinary Technician (CVT) applicants who withdraw their applications prior to Board review. This action will allow the Board to recover its expenses for the time that Board staff has spent to process the application that the applicant then withdraws.

The change also adds an additional phrase to require that changes to patient medical records must identify the revision, and include additional notations to identify who made the change, the date of the change, and why the record was changed. This will ensure that the Board or a subsequent practitioner can clearly understand the events that led to the record revision.

Lastly, the change will remove the current requirement that a veterinarian obtain a signed release from the animal patient's owner prior to releasing patient record copies to another veterinarian or the owner, which will help improve and expedite the patient care, and will also relieve the patient's owner from unnecessary duplication of expenses of having tests or vaccinations or procedures redone that were made at a previous office. Patient medical records will remain confidential and veterinarians will implement their own system to positively identify clients who make verbal records requests.

**Ms. Ewing** noted that the Board conducted a survey of its licensees and certificate holders and received 779 responses, of which 83 percent were fine with the changes.

**Vice Chairman Smyser** asked if the records are still confidential, why would people still be against it. **Ms. Ewing** answered that it is a philosophical difference, based on some people wanting everything in writing to protect themselves from the litigiousness of society.

**MOTION:**

**Senator Nuxoll** moved, seconded by **Senator Schmidt**, to adopt Rule No. 46-0101-1101. The motion carried by **voice vote**.

**DOCKET NO:  
46-0101-1102**

**Karen Ewing** outlined a pending fee rule of the State of Idaho Board of Veterinary Medicine, which is designed to help the Board cover the costs of its budget over the next five years, considering annual license renewal fees are the Board's most significant source of income. The fees for veterinarians have not been increased since 1999 and fees for euthanasia agencies have not increased since 1993. To determine acceptance of the proposed fee increases, the Board conducted a survey and received 779 responses from licensees and certificate holders, and two thirds of respondents are okay with the increases.

The original proposal was to increase the annual license renewal fees by \$75 from \$125 to \$200. However, in light of current economic situation, the Board decided to reduce the amount of the increase to raise it by only \$50, from \$125 to \$175. **Ms. Ewing** said the Board felt this was appropriate, given the last increase 13 years ago was also by \$50. This fee increase will place the Board in the middle of the veterinarian licensing renewal fee costs in western states. Ten states have similar or higher renewal fees, and seven have lower renewal fees.

During the Board's public hearing on the fee and non-fee rule changes, the Idaho Veterinary Medical Association (IVMA), which is an organization that advocates for veterinarians in the state, testified in support of the original fee increase, even before the reduction in the amount of the increase.

**Senator Schmidt** asked for a description of the Board's fund balance. **Ms. Ewing** said the Board's Free Fund Balance will fall down to \$40,000 within the next two years, and with the annual budget at \$200,000, the Board would like to keep a balance of six months operating expenses in the Free Fund. With the fee increase, it will allow the Free Fund Balance to go out to 2016 and be about \$116,000, using conservative calculations. This means it would be five years before another increase is potentially needed.

**Senator Pearce** asked if there was a hang-up in the House on some of these rule changes? **Ms. Ewing** replied that there was no issue with the fee rule, but in the non-fee rule docket, the House had an issue with the rule about not refunding technicians application fees. The House also had a problem with a statute change. But there were no objections to the fee increases during the House Agricultural Affairs, Livestock Subcommittee.

**MOTION:** **Senator Schmidt** moved, seconded by **Senator Hammond**, to adopt Rule No. 46-0101-1102. The motion carried by **voice vote**, with **Senator Vick** asking to be recorded as voting nay.

**DOCKET NO:**  
**02-0409-1101** **Vice Chairman Smyser** introduced **Mark Patten**, Dairy Bureau Chief for the Idaho State Department of Agriculture. He outlined the rule that establishes specific parameters for milk component testing, as required by the passage of HB152 in the 2011 Idaho Legislature. The ISDA is required to establish a fair and equitable way to determine milk components so that dairymen are appropriately compensated for the value of the product they produce. Milk is purchased on volume, where quality has no component. Through numerous negotiated rulemaking procedures with stakeholders including the Idaho Dairy Association, this rule was reached and published in October 2011 and received no comments.

**MOTION:** **Senator Nuxoll** moved, seconded by **Senator Schmidt**, to adopt Rule No. 02-0409-1101. The motion carried by **voice vote**.

**PRESENTATION:** **Vice Chairman Smyser** welcomed **Brent Olmstead**, registered lobbyist representing Idaho Business Coalition for Immigration Reform, and his guest **Priscilla Salant** from University of Idaho, Office of Community Partnerships. **Ms. Salant** is one of four authors of a report titled, "An Analysis of How Reducing the Supply of Foreign-born Labor Would Impact Idaho's Economy." **Mr. Olmstead** offered some background that about five years ago, discussion began for the state of Idaho to take action on immigration, and it was found that there were not solid facts of what impacts would be. The Coalition found there are difficulties on both sides of the issue. Idaho Dairymen's Association took it upon itself to hire the University of Idaho to do a study, which has taken three years to complete. **Ms. Salant** began her presentation by stating the background behind this study is controversial, with the question of whether immigrants are a net benefit or net cost to the country, and there are strong feelings on both sides of the issue, which is why this study is important. A copy of this report and a one page summary of its contents are attached.

Following the presentation, **Senator Bock** asked for clarification on the net loss of jobs and the impact on the economy indirectly. **Ms. Salant** noted that an advantage to this study is that it does take into account the indirect impact, and that is included in the net loss of 17,000 jobs.

**Senator Vick** asked if the figures take into account the cost of unemployment and welfare benefits for the native born labor force who are not working because foreign born workers are in those jobs. **Ms. Salant** replied that this model does not include those figures, but it did look at the use of services such as criminal justice and health services to see if there was a disproportionate burden on South Central Idaho, and it found that there is less use of those services by foreign born workforce, because of concerns of connecting with the system without being able to provide proper identification.

**Senator Vick** asked if there is a way to measure how the substitution problem would change if the native born workforce who were not working did not have access to services so that they can still live without working. **Ms. Salant** replied that is not in the model.

**Senator Vick** asked for information on why the substitute workers won't take jobs when they're available, and how that conclusion was reached. **Ms. Salant** replied that the study does not "conclude" that substitute workers would or not take a job. There is only anecdotal evidence, not hard data, on the numbers of native born workers not taking jobs left vacant by a reduction in foreign born workers.

**Vice Chairman Smyser** asked if foreign-born workers receiving services also included the foreign born workers' families. **Ms. Salant** said yes, it includes the families.

**Senator Bock** noted that he is by no means an advocate of using foreign-born workers to reduce labor costs, but acknowledges that the presence of foreign-born workers reduces labor costs. He asked what calculations have been done to calculate the increase in labor costs in the absence of foreign-born labor. **Ms. Salant** asked if he was referring to the aggregate (or total) wages paid or the wage rate. **Senator Bock** answered he's looking for both, as he shared an example of how a dairyman paid more for native-born workers than they would have paid foreign-born workers, and unfortunately, the native-born didn't last the day on the job. So he'd like to know the wage rate for the employees as well as the overall cost to the economy. **Ms. Salant** replied the wages would be up for workers in the less educated group. The total cost can be calculated by multiplying the increase in the average wage rate by the number (4,000 in this study) of workers in the less educated group, and that would be the total wage hit.

**Vice Chairman Smyser** thanked **Ms. Salant** and **Mr. Olmstead** for the presentation.

**ADJOURN:**

**Vice Chairman Smyser** called the meeting adjourned at 9:23 a.m.

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Senator Siddoway  
Chairman

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Christy Stansell  
Secretary