

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, February 07, 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: None

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.

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

MINUTES: The Committee considered the minutes of the Agricultural Affairs Committee meeting from January 31, 2012.

MOTION: **Senator Corder** moved, seconded by **Vice Chairman Smyser**, to approve the minutes of January 31, 2012. Motion carried by **voice vote**.

RS21155 **Chairman Siddoway** introduced **Vice Chairman Smyser** to present RS 21155 relating to the proceeds from sale of stray livestock. **Vice Chairman Smyser** invited **Stan Boyd** to the podium for further information.

Stan Boyd, speaking on behalf of the Idaho Cattle Association (ICA), described the way the Unclaimed Livestock Proceeds Account works. He said that if stray livestock are picked up and the owner is not found, the Sheriff has to keep them for ten days until they can be sold. The proceeds are put into an account and the funds are kept for 18 months. At the end of that period, if no one has claimed the proceeds, the funds are transferred to the Endowment Fund Investment Board and the monies are invested in the Public Schools Permanent Endowment Fund. Only the interest earned on those monies are spent on K-12.

Three years ago the Idaho Cattle Association created the Idaho Cattle Foundation, whose five Board of Directors are all past presidents of the ICA. The purpose of the foundation is exclusively for charitable, scientific, literary and educational purposes. RS21155 would redirect where the proceeds go. Instead of the "public school fund" it would go into the miscellaneous revenue fund for appropriation to public education and/or higher education programs that advance the livestock industry and agricultural in general, as directed by the Idaho Cattle Foundation. For example, it could go to University of Idaho for research or to fund "Ag in the Classroom" for fourth graders.

The five year average of funding from the unclaimed livestock proceeds is \$33,800. It was as low as \$18,000 in 2007 and as high as \$67,000 in 2010. Mr. Boyd testified that since the funds come from livestock, the Idaho Cattle Foundation would like to have input on where the funds are applied.

MOTION: **Senator Bock** moved, seconded by **Senator Nuxoll**, to print RS21155. The motion carried by **voice vote**. **Vice Chairman Smyser** will carry the bill on the floor.

Chairman Siddoway introduced **Senator Corder** to present S1259, relating to provisions governing the Idaho Wheat Commission. **Senator Corder** noted that the only controversial part of this bill is the raising of the cap of the assessment from two cents up to five cents, and the last time there was a change was in 1982. He pointed out that the Commission is not suggesting it will go up immediately, but the Commission would like the ability to do so. **Senator Corder** invited **Dar Olberding** to the podium for further information.

Mr. Olberding says the proposal not only gives the ability to raise the rate, it also gives the ability to remove a Commissioner and to allow the Commission to hold a referendum. **Mr. Olberding** yielded his time to other people impacted by this proposal, first introducing **Joe Anderson** of the Idaho Wheat Commission. Supporting documents related to **Mr. Anderson's** testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #1)

Upon the conclusion of **Mr. Anderson's** testimony, **Senator Nuxoll** asked about a controversy over a recent rate increase attempt. **Senator Corder** clarified that the conflict involved the Barley Commission and not the Wheat Commission. **Senator Nuxoll** commented she thinks it's great that funding will go toward research, but she wished to share a comment from a constituent who preferred the increase to be by one cent at a time.

Mr. Anderson responded that the Commission did an advisory poll in 2009 with a ballot to all 4500 wheat growers in the state and it came back 75 percent positive that growers would support a one cent increase. With the passage of the bill, the Commission will have the authority to do advisory polls, referendum, whenever they see the need. **Mr. Anderson** said more important than what the actual rate is what the growers want to see happen. If they see opportunities that will require more money, the Commission's experience is that they're willing to pay. He said the opportunities and challenges are what are important, and the money is just how they get it done.

Senator Vick asked about the purpose of the language regarding the referendum. **Mr. Anderson** replied that the Commission felt it needs to be in the authorizing language to establish that the Wheat Commission recognizes there will be the need for referendum from time to time. **Senator Vick** asked what the referendum would be used for and if they're binding or only informational. **Mr. Anderson** answered the Wheat Commission has a good track record of trying to do what the growers want them to do. The referendum are not legally binding, only advisory. **Senator Vick** asked about the tax being imposed on the crop reduction program and **Mr. Anderson** clarified that every bushel that's grown in the state of Idaho is subject to the assessment.

Chairman Siddoway asked what discussions were held during development of the bill about a refund provision. **Mr. Anderson** said there was discussion about a refund provision, but that the growers were not insistent that there be a refund provision. He stated that such a provision would make it difficult to establish reliable budgets, so the Commission has not sought the provision at this time.

Vice Chairman Smyser asked for clarification on the percentage of increase in the assessment. **Mr. Anderson** said that if the assessment is at two cents and goes to three cents, it would be a 50 percent increase. He pointed out that as farmers, there are other dockages, so the wheat assessment is minimal in comparison.

Chairman Siddoway asked the members of the audience who wished to testify to please make their comments as quickly as possible as there is a large number of people wishing to speak, and many items to cover on the agenda.

Blain Jacobson with the Idaho Wheat Commission came forward to introduce three Idaho Wheat Commissioners: **Gordon Gallup**, from Idaho Falls; **Jerry Brown**, from Soda Springs; and **Joe Anderson**, from Potlatch. Other commissioners are in Burley for the Cereal School. He also introduced members of the Idaho Grain Producers Association: "**Genesee Joe**" **Joe Anderson**, from Genesee; **Robert Blair**, from Kendrick; and **Clark Kauffman**, from Twin Falls. These are wheat industry leaders elected by farmers. Also here are members of the Farm Bureau, including Chairman **Mark Trupp**.

Mr. Jacobson referred to the tri-fold brochure that was presented in his annual report last week to point out the fluctuation in the wheat assessment over the years. He said it has been over twenty years since the Commission has worked on the legislation. He stated the Commission is asking for the authority for five cents so they don't have to come back again for a number of years, noting that they have been talking about a penny increase as they've discussed it in Cereal Schools. **Mr. Jacobson** also stated that they have more growers opposed to a refund provision than are supportive of it. He said that is because the majority want the increase to see an investment in research.

Mr. Jacobson shared how the Commission went about reaching the growers for their survey and held up the large file of responses, if anyone desired to see them. He noted that an independent third party cross-referenced the responses to ensure there was not duplication. They had positive results from a survey in 2009 and decided to do another one in 2011, balanced by county, to determine if there was still support. Results indicate even stronger support, with a three to one ratio in favor of giving Commissioners the authority to raise the assessment.

Mr. Jacobson reviewed the budget he provided during the annual report last week, saying he believes the Commission has been running a tight financial ship. He said they compare their Commission with other states' commissions and the Idaho overhead budget is lean and efficient. He said this demonstrates how the Commission's three main focuses of Research, Grower Education and Market Development work well together.

Mr. Jacobson introduced **Gordon Gallup**, Grower Education Chairman, and **Steve Wirsching**, Director of Market Development, U.S. Wheat Associates, West Coast Operations. **Mr. Jacobson** said the Commission encourages passage of this bill, noting that the industry is changing rapidly, and they'd rather be a part of the changes.

Senator Schmidt asked how the Commission verifies the votes in a referendum.

Mr. Jacobson said every ballot had a control number, so the third party could make sure there were no duplicates. The ballot also asked for a number of bushels the producers made, so the Commission could get a total on a weighted basis and based on the straight vote. He said the results also showed that the larger the grower, the more willing they were to invest in the industry, and the younger the grower, the more anxious they were to support it.

Steve Wirsching approached the podium to share some international export industry information. He said the U.S. Wheat Associates is a non profit organization that represents U.S. farmers in the international market. Idaho is one of the 19 member states. He said the sole purpose of the organization is to improve the profitability of U.S. farmers by increasing overseas sales. In Idaho, slightly more than half of Idaho's wheat is exported. In south Idaho, much of that wheat goes to the domestic industry. In north Idaho, 95 percent goes into the export market.

Mr. Wirsching said the U.S. Wheat Associates receives matching dollars from the federal level, with a three-to-one match. The member states asked the Associates to research the return on investment, and Cornell University project showed that for every dollar that was invested, \$23 went back to the grower. **Mr. Wirsching** went on to describe projects in China and Mexico that have resulted in significant increase in export sales.

Mark Trupp, Vice President of the Idaho Farm Bureau shared the Bureau's support of the proposal, saying that the Commission has proven when the reserves were sufficient, they lowered the assessment, and that they have managed the reserves well, to better the growers and the industry. He said the Bureau appreciates the referendum provision, which allows them to have a say in what the Commission does with growers' money. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #2)

Chairman Siddoway asked if anyone present desired to speak in opposition to this bill. As there were none, **Chairman Siddoway** asked for the pleasure of the Committee.

MOTION:

Senator Corder moved, seconded by **Vice Chairman Smyser**, to send S1259 to the floor with a do pass recommendation. In discussion, **Senator Vick** expressed his concerns about the size of the increase and that the referendum are not binding. **Vice Chairman Smyser** commented that in light of all the cuts in research, she recognizes the importance of public-private partnerships like the Idaho Wheat Commission is doing. The motion carried by **voice vote**, with **Senator Vick** being asked to be recorded as nay. **Senator Corder** will carry the bill on the floor.

S1236

Chairman Siddoway introduced **Lloyd Knight** of the Idaho State Department of Agriculture (ISDA) to present S1236, relating to provisions of the Commercial Feed Law. **Mr. Knight** began by saying that per the ISDA Director, the Department by definition, is not for developing policy, it's for implementing policy. However, the Department does go through a process of communicating with stakeholders about changes that need to be made in a program, which is how the changes to the Commercial Feed Law have come about. He said, "We are under no illusion that we have picked all the right solutions for everybody around the program or around the issue, but we've certainly done the best we could to find the right fix."

Mr. Knight shared the responsibilities of the ISDA in the Commercial Feed Program as well as what the program entails "at a glance." He pointed out the program has grown significantly over the past several years with now nearly 900 registered feed companies. He shared they performed nearly 4,000 tests on nearly 1,100 samples taken. Tests include verifying label compliance, label guarantees, looking for adulterants or toxins, and heavy metals. Of those, 146 resulted in Stop Sales, which means those products are pulled out of distribution until those companies can correct the issues.

Mr. Knight said the Department did a Zero Based Budgeting review of the Program. They started communicating in March of 2011 with a group of stakeholders that included more than 40 individuals and companies, trade associations, those that represent industries that consume the products, and those that represent industries that manufacture the products, and legislators who had interest in the issue. They held one big group meeting and a number of smaller one-on-one conversations over the course of the last year. Ultimately they sent out legislation for comment in October 2011.

Mr. Knight said what they heard from stakeholders that resulted in the legislation before the Committee today include concerns about how cumbersome and costly the program had become, mainly focusing on tonnage reporting. Some complained that the Department appeared to be a tax agency. The Department had trouble focusing on tasks that seem to be most important for a program such as this. Companies that ship in to Idaho had trouble tracking what was coming into the state. In the modern distribution center that we have, products can come from several marketing chains and distribution chains to get into Idaho.

Mr. Knight said the Department focused on key program objectives: Verify truth in labeling, ensure consumer and animal safety, and ensure a fair marketplace. He said they'd like to do more inspection and sampling in the marketplace, in relation to some of the changes coming to accommodate the federal Food Safety Modernization Act. He said they also want to ensure accountability of the Department.

Mr. Knight went on to outline the specific changes to the statute, line by line. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #3)

Senator Schmidt asked about inspections and how one in four resulted in violations and one in eight required stop sales, and if that is a high frequency or what is expected. **Mr. Knight** replied that number seems to be consistent from year to year, so that is expected. Minor violations have a variance that is allowed by AOSA standards. This has become more of a "service" the Department provides as the testing may find some things that they didn't find themselves in their testing within their distribution chain. Distributors and manufacturers do sampling every day, usually to make sure the products meet contract requirements, but they may or may not be testing for certain adulterants or consistency of rations in mixed feeds. Sometimes the Department has found medications not in the levels they need to be or may have been medications where there should not have been.

Senator Corder commented that he's not totally convinced that this legislation is what needs to be done. He asked for more information on how the Food Safety Modernization Act might impact the Department and what changes might still need to be made to this proposed Commercial Feed Bill to bring it into conformance with the new federal act.

Mr. Knight replied that it has been a year or two since it passed, but they still have not published the CFR regulations, so the Department's goal is still unclear. He said he wouldn't be surprised if there are additional changes that need to be made to the program to accommodate the federal rule. The state of Idaho does not make inspections of FDA licensed facilities, so the Department's role may be limited unless the industry comes to the Department and asks for their involvement.

Senator Corder asked what the Department speculates might be their involvement, and do they expect a requirement for tonnage reporting on feeds that travel the interstate. **Mr. Knight** said that kind of information could be the same information we get from registration. He said he thinks the role the Department will play will be actual inspections in the field.

Mr. Knight said part of the Department's discomfort during their internal review and discussions with stakeholders is the limited resources and people they have to assign to these programs. He said he's not in the position with the workload they have with tonnage to switch gears and deal with the FSMA issues and activities should they arise. Inspectors have a dozen programs they deal with, and other limitations. He said if they were able to get some of the workload of tonnage reports off their plate, they would be in a better position to react more quickly when the CFR is complete. He said that is the part they did anticipate, even though they're not sure what all the details are and what their role will be.

Senator Corder pointed out that the Committee has received a number of letters from other companies that suggest another alternative, a way to relieve administrative burden from the Department and other stakeholders and find middle ground. He asked **Mr. Knight** what other alternatives were looked at when the Department was assessing where to go with this program.

Mr. Knight replied that when they sat down to look at all the alternatives on how to structure the program, with tonnage and registration, they looked at what other states have done. One option is doing what the Department does now, with tonnage and registration. Another option is that some states have done is what is being proposed, as registration only. There are many hybrids that are across the board in that middle ground. Some states have gone to licensing facilities, whether for distribution or manufacturer, and then added tonnage report on top of that. Some do a straight license for distribution or manufacturer and do no tonnage. There really isn't a great deal of consistency, because out of all the states, there are 30 that require product registration, there are 35 that require tonnage, there are 35 that require tonnage and registration.

Mr. Knight noted that of course that doesn't all add up, because a lot of states do different splits between classes of products. Some states treat pet and bagged feed separately than they do bulk shipments of commodities and mixed feeds. Four states do brand licenses, and they define those licenses as being under a whole brand and not individual products. Fourteen do facilities licenses and thirteen do company licenses. So in summary, it is across the board and the Department talked about the options, and when it came down to why they picked this option, it really focused on what the Department believed is more of the service that needed to be provided under label review and registration.

Some states have gotten away from label reviews, and there are now only a handful of states that do label review in any detail at all. The Department's concern was that if they got out of the label review business, it would fall on someone else to do that testing later. Some suggested doing label review in the field by Department inspectors. Inspectors deal with most of the programs already and don't really have the full training or time to do all the label review in the field the same way they do in a handful of other states. At any given time, the Department has one to three people in the office dealing exclusively with label review, and they're good at it. They are good at catching ingredients in food that shouldn't be there. They have found ingredients that are prohibited from being in certain species' feed and were able to make sure that didn't get into the marketplace.

Mr. Knight said, "So, did we review all the alternatives, yes. Did we pick the one that we thought best fit the needs for Idaho based on what we were hearing from multiple stakeholders, although not all of them, but obviously we know we didn't pick the option that pleased everybody."

Senator Corder asked for more information about a "model law." **Mr. Knight** replied that when **Mike Cooper** spoke earlier this session, he referenced the official publication, and there is a section in that publication for a "model bill." Nearly every feed statute in the country starts with that model bill, including definitions of feed, how registration should work, and how licensing should work. There are options that states have taken from the model bill, and other states that don't follow it at all.

For example, Oregon doesn't register pet food. Montana treats pet food differently. So there is a model, and there are national companies that would like all states to do it the same, but not every state has chosen to follow the model bill. There will be differences in the states.

Senator Pearce pointed out that the fiscal note says proposed changes in the fee structure may reduce overall program revenue, but some of the letters from other companies indicate it will drastically increase their costs. **Mr. Knight** replied that there are 16,000 products registered in the program currently. That number can vary by as much as 2,000 at any given time of the year with products that come in and out of the marketplace.

Out of the 800 companies that are registered, some companies have two products registered, and some that have 1,300 products registered. Out of those products, two may be a high volume commodity with high tonnage. Some companies that pay the equivalent of \$7,000-\$8,000 per product per year in fees. Some companies are paying only \$8 to \$9 per year per crop. They all pay a \$5 registration and they all pay tonnage based on that. **Mr. Knight** said this will impact some companies differently. Those companies that register 1,300 products, that if a fee is set in rule, will in all likelihood will be more than what they're spending now.

But keep in mind that with 1,300 products, the Department has to do a label review for the marketplace. Some companies will say they don't know for sure those products are coming and they're not sure those products ever made it here, and by virtue of their tonnage reports, all of those products are not being captured, because it seems like a pretty low number for those tonnage reports. **Mr. Knight** said there is still a workload associated with those products that is probably worth a lot more than \$7 or \$8 or \$9 a product. So certainly there will be companies that have to pay more in total fees and there will be some that have been bearing a significant part of that burden that the Department could never put in \$8,000 worth of work for that product.

Mr. Knight said overall, in the program, there will be some reduction in revenue, because some companies that would register their whole portfolio may not do that now. They may become more knowledgeable about what products are coming to Idaho. So that revenue could decrease. But it will be more equitable to recognize that there is a lot more work associated with those 1,300 products than \$7 or \$8. And probably a lot less work associated with the other products than \$7,000 or \$8,000.

Senator Pearce asked how much did the industry come to the table on this legislation and if there was input from everybody or just Idaho businesses and not out of state businesses. **Mr. Knight** replied that in the group of stakeholders, the Department tried to have a cross section of everybody, from a company who manufactured dog treats in their kitchen who doesn't sell 100 pounds of these treats per year, to larger companies that have both pet food and livestock feed, to national companies who have operations outside of the state that distribute into the state, some from in state and some from out of state.

Mr. Knight said the Department communicated with everyone, but not all of them responded. Even in December after the proposal came out in October, the Department was still trying to get them to respond, and some did not reply until the print hearing in January. So they all had an opportunity, some responded and some didn't. But the Department tried to have a good cross section that represented all those interests.

Doug Jones, representing a coalition of national and regional trade associations and five large feed manufacturing companies who operate nationally, approached the podium to testify. He spoke in opposition to S1236. **Mr. Jones** stated the group he represents don't disagree that it's appropriate to review the statute, update it, and make some changes and improve it both for the Department and for the people who buy and sell feed in the state.

Mr. Jones stated that some of the companies did indeed participate starting with the initial inquiry in March 2011, some via conference call. They did submit comments and by June 2011, **Mr. Jones** said they thought they had an understanding of the direction the Department was going to take with updates to the statute. He stated he understands the Department has to do updates on a certain legislative time line. When the draft of the legislation was sent out in late October, he said some of the companies thought the process had gone 180 degrees from where they thought it was going to go and that it was contrary to the comments they submitted earlier in the year. **Mr. Jones** said they are concerned about what happened after their comments were submitted.

Mr. Jones submitted a series of letters and testimony from the companies that he represents for the Committee's consideration, noting a few highlights. Two companies, represented individually as companies, operate in the state: Cargill has a plant in Rupert and ADM has a plant in Twin Falls. Some of the others have companies in adjoining states that ship into Idaho, so he said, they are Idaho companies doing business here.

Mr. Jones gave an example with one of the biggest consumers of livestock feed being the dairy industry. The plants in Rupert and Twin both service that industry, so they are concerned because they do a significant volume of business there. Written testimony talks about the importance and cost of livestock feed, and that it is a significant portion of the production cost of an animal. The letters also talk about their participation in the process, their comments to establish an appropriate facility licensing fee, keep tonnage reporting with associated fees at an appropriate level, and their request to repeal the requirement to register their products and pay product registration fees. They think the legislation is going the opposite direction of what they would prefer to see happen. **Mr. Jones** said these are large companies that would like to see some consistency across the states. He said they couldn't make these proposed changes until they got to read the bill in October.

Mr. Jones said the letters say they are "strongly opposed" to these changes and they feel the proposal is inefficient to both them and the Department. He said the companies feel that within their own registration departments, for their own protection, they will register every product they have in Idaho, for a couple of reasons: They don't always know when a product is going to show up in Idaho, especially in the pet food industry; and, for their own internal costs they will register everything. They estimate the fee, to be set in rule, will go from \$5 to roughly \$40. **Mr. Jones** says he personally doesn't object to the Department having the authority to adjust the fee.

He said the companies feel that they will submit all of their labels, which will increase the burden on the Department to review the labels, some of which will probably never show up in Idaho. But they will submit them because they need to protect themselves. He said the companies' processes are such that they would rather do it once a year and submit everything and write one check, because in the cost of writing the check to register a label is the accounting time in these companies, and that drives the cost up.

Mr. Jones said his coalition's second objection in going away from tonnage, is if tonnage reporting is done properly, it would lead the Department to know what products are in those tons and where the most emphasis for testing might need to be. He said he thinks the Department would say the testing process is not entirely efficient, especially dealing with truckloads of feed. By the time the Department takes a sample, runs it through the lab, gets the results back, the cows long ago ate the feed. He said the Department needs to improve the testing process.

It is true that this legislation will change the whole funding scheme of who pays what, because there are products that are high volume products, and they are single products. It will shift that burden to companies who only have small amounts of products, but pay for some of that, even though those products may be vital in that market. The coalition is not in favor of making that major shift.

There is a new federal act that was signed by the president last January that is going to require some modernization and change of regulation throughout the industry. **Mr. Jones** said he concurs with **Mr. Knight** that the rules haven't been written yet, and that the Department doesn't know what the responsibilities might be, and it could be delegated to do some of these inspections, which might change what the Department does with this feed legislation statute.

In regard to what other states have done, there are 28 states that have gone toward tonnage reporting, increased that, and in some cases with a facility registration fee, generally about \$100. **Mr. Jones** said the industry feels that label review is an antiquated system, not that it shouldn't be done at all, but that is not where the industry is today.

Mr. Jones said the group that he represents all oppose the bill and request that the Committee hold this until next year, with a pledge that they will work with the Department through the summer to create an equitable balance between tonnage, registration, facility license or whatever combination that might be that better represents the whole industry. He also asked to point out that has been no comment from the fish industry, where 85 percent of the trout production in North America occurs in southern Idaho. Feeding them is very important to Idaho. **Mr. Jones** also stated that 64 percent of the labels the Department reviews are in the pet food industry and only 28 percent of the revenues come from the pet industry. He suggested looking at splitting pet food away from commercial livestock feed and treat it in a different way, because as he said, **Mr. Knight** noted that pet food is one of the harder things to track because of all the different retail operations, grocery stores and big box stores.

Mr. Jones said there is model legislation and he could make available a copy of relevant sections if needed, as well as model reporting forms for tonnage, that he said are relatively simple and could be modified to suit Idaho's need. He said the industry feels those are manageable and believe it will be easier for the Department, too. **Mr. Jones** repeated his request to hold this bill for another year.

Senator Nuxoll asked what cost more for smaller businesses, tonnage or registration. **Mr. Jones** said he's not sure he can answer that correctly, as it varies from business to business. The more tonnage one has, the more one pays. If a company sells high volume, tonnage will cost more. If a company sells more types of products, the registrations will cost more. **Senator Nuxoll** asked if hay is included. **Mr. Jones** deferred the answer to **Mr. Knight**, and **Chairman Siddoway** said it is not included.

Senator Corder commented that it is clear that there will be a cost shift, and that **Mr. Knight** said that. When it comes to the administrative function of the state, someone who ships in 100,000 tons of feed and requires one inspection and one test and one person to check that for ten minutes, should that person who ships large amounts have a greater responsibility, in current law, than the companies **Mr. Jones** is representing, that may be shipping 1,000 labels, and the state has to hire three people to do that year round to compensate.

Senator Corder asked about a comment in the letters submitted by **Mr. Jones** that say it costs the companies more to write a second check midyear and **Senator Corder** said he's struggling with the concept and asked why does it cost more to write two checks rather than one.

Mr. Jones replied that if it was the Senator or himself writing a check, it wouldn't cost much more, but for a large company with large accounting departments and bureaucracies, it takes time to pass it through multiple hands, and the cost of doing that processing is more than the value of the check. He said there is also the risk and liability that if they don't register a product and it's not labeled, then they have a problem: a problem with the company that requested the shipment if they don't ship it, or a problem with the Department if they do ship it without the label and registration, if that leads to a stop sale or a fine. **Mr. Jones** said it's more cost than just sitting down and writing a check.

Senator Corder said he saw the letters with comments that were submitted to the Department in June and then later in October they expressed concerns, as **Mr. Jones** testified, that the Department took a 180 degree turn, and they're all unanimous in that claim. **Senator Corder** asked if the companies feel the Department ignored them or why did the conflict occur. **Mr. Jones** replied that he was not involved in the discussions over the summer, and that he can only relate what he's been told by the companies.

Mr. Jones pointed to the documents that the companies have submitted and that it wasn't until the draft legislation came out that it went a different direction. **Mr. Jones** said he was contacted by one of the companies who said this didn't go where they thought it was going, and that was about the first of November, and that was his first involvement in this legislation. He said he cannot answer the question about what their expectations were or what comments the Department may have made, only that once the draft came out in October and then when the print hearing was held, that's when they became more active.

Mr. Jones said the companies did not comment directly with Department, rather they commented through the trade association, expecting them to represent their views, so there is no documentation to the Department, only to the trade association.

Supporting documents related to **Mr. Jones'** testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #4)

Paul Marsh of Scoular Company approached the podium to speak in favor of S1236. He has a rail truck transport facility in Jerome, Idaho that primarily serves the beef and dairy industry in the Magic Valley and in the Treasure Valley, some swine and some poultry. He shared his perception in the past few years that those industries are paying a great portion of the costs associated with it and aren't getting any of the benefits. For example, from his company alone, the forms that he fills out quarterly, they pay anywhere, directly or indirectly, \$22,000 to \$25,000 per quarter based on the tonnage tax, and that gets passed right back to the people. They're the ones ultimately paying for it.

Mr. Marsh shared that he looked online to see how many tests are being done each year. In 2001 to 2005, for the 15-20 commodities that his company handles, he counted sixteen tests in a five year period. Since 2006 to 2011, there has not been any reporting by the Industry. But speaking from experience at his facility, they came in and took one sample between 2006 and 2011. Last year, they handled in excess of 6,000 cars of feed grains and commodities. He said, "The dairymen and the beef men aren't getting any bang for their buck out of this. It is way disproportionate." He added that's why they support this bill because if the system goes to the registration fees, they will register between fifteen and twenty commodities. That's a great reduction in price for those guys, and that is who he is concerned about. Their costs will go down and the service and the quality of the feeds will remain unchanged.

Dr. Tim Bodine, President of PerforMix Nutrition Systems, approached the podium to speak in favor of S1236. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #5)

Steve Busby, Idaho Operations Manager of JD Heiskell and Company approached the podium to speak in favor of S1236. He said they are the largest feed manufacturing and distribution company in the state of Idaho. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #6)

Bob Naerebout, Executive Director of the Idaho Dairyman's Association, approached the podium to speak in favor of S1236. He said he wanted to make sure the Committee understands that **Lloyd Knight** absolutely did contact everybody and did a lot of follow up to make sure their thoughts were included. He said **Mr. Knight** was almost "badgering" them to make sure he was getting responses. **Mr. Naerebout** said the Dairy Association leaders support this legislation. **Mr. Naerebout** said he didn't know if anyone from Food Producers was in attendance to testify but he knows that **Mr. Knight** included Food Producers in the discussions at least twice, and that Food Producers supports this bill, as well.

Brent Olmstead, registered lobbyist representing Milk Producers of Idaho, approached the podium in support of S1236. He said Milk Producers is not just dairies, as the organization also has associate memberships that include many feed dealers, who said they were excited about not having their staff have to spend so much time on tonnage reports because it would create more efficiencies in their companies. **Mr. Olmstead** said over the years, the bulk feeds that the dairies use have been paying for the program, and the pet food industry has been getting by on the backs of bulk food industry. He said dairies receive a lot of loads and it was about \$6 per load but with this legislation could drop to \$2 per load, which would result in significant savings to the dairies and indirectly to consumers. **Mr. Olmstead** said the label review that **Mr. Jones** called antiquated, is important to the end users like him because he wants to know what that feed is supposed to provide. **Mr. Olmstead** said **Mr. Knight** was also in contact with him and his organization numerous times wanting input.

Lloyd Knight of Idaho State Department of Agriculture was asked to return to the podium. **Vice Chairman Smyser** said there appeared to be discrepancy about whether all industries had adequate time for discussion. **Mr. Knight** said everybody got the same communication and had the same opportunity and invitations to participate, saying that he had very clear conversations with people who are now opposing the proposal, and that he hasn't heard from some who were opposed. The Department addressed the issues they heard the most and the loudest. **Mr. Knight** said he didn't want to come before the Committee with legislation that was not complete, but that he was discouraged at the print hearing because it would have been helpful, if the Department was that far off the mark, to have heard from these people in October or November.

Senator Pearce asked if the in state companies are happy with it, and out of state companies are not, why that is. **Mr. Knight** replied that even some companies that are opposed to this could have a wash in the fees when it changes from one format to the other. Some will have a reduction, some will have an increase. In state companies are easier to get to with tonnage reports, label reviews and samples, so it may feel like there's more focus on them than on the national companies. His authority to go across country to audit books for tonnage is different than going across town or the state. **Mr. Knight** said that the product mixes are different, in that out of state companies have multiple products, compared to the in state companies, and that out of state companies have to make the business decision about what products are going to Idaho, and which to register. In the current system, it's very easy to register 1,300 products, because it's only \$5 per product, and knowing that their tonnage report will show something different, depending on what made it into the state.

Mr. Knight said the Department does label review on every one of these products, and that will not change under this proposal. So every time a company registers a product, whether it's two products or 1,300, they're doing that work. That will not be a new burden on the companies. But what will change is the companies' decision on what they're going to register. Even now the Department finds products that are not registered and they have to track it down. Those companies that are that large are always going to have products in the marketplace that they don't expect to be there. **Mr. Knight** said the difference in focus that **Senator Pearce** is referring to may just be that the Department can't always get to the out of state facility or corporate office.

Senator Pearce asked about the regulation of DDGs. **Mr. Knight** said the Department does track DDGs in the market, which is actually a good example of tonnage reports, and how a company can receive a product from multiple sources for a product they have registered. When they submit their tonnage report, the report where the DDGs came from, and the Department has to check registration, double check tonnage and audit that track for each one of those DDG sources, all for one product. They're looking to ensure that the product wasn't paid on before. If ADM sold DDG to Schouler, the Department wants to make sure ADM didn't already register and pay tonnage on it.

Senator Pearce asked if the Department is regulating things that don't necessarily need to be regulated, for example, corn from the Midwest. **Mr. Knight** replied one of the reasons for changing the definition of commercial feed, where it talks about exemptions for by-product in rule, is that they do very few exemptions now in rule, because some exemptions are called out in statute, and a lot aren't. What the Department wants to do is, in rule, have everyone provide a list of by-product exemptions, because there are probably a lot of products that don't need to be registered as feed. Some by-products are mixed with other products when they go to be pelletized, and that changes the character of that product, so it may still need to be regulated. The Department would like to go through all that with stakeholders up front and in the open.

Senator Vick commented that one person who wrote in opposition stated the legislation would discourage them from doing business in Idaho, and asked if Idaho risks losing availability of certain products if the legislation passes. **Mr. Knight** replied that is hard to anticipate, but suggested if there is a demand for the product, it will probably still be here, and he'd be surprised if a product was not available, because someone will register it.

MOTION: **Senator Corder** moved, seconded by **Vice Chairman Smyser**, to send S1236 to the floor with a do pass recommendation. The motion carried by **voice vote**, with **Senator Pearce** and **Senator Hammond** voting nay. **Chairman Siddoway** will carry the bill on the floor.

PRESENTATION: **Chairman Siddoway** invited **Moya Shatz Dolsby**, Executive Director of the Wine Commission, to the podium for her presentation of the Wine Commission Annual Report. Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #7)

Vice Chairman Smyser expressed appreciation to **Ms. Dolsby** for the Commission's diligent efforts in the tourism industry in Canyon County.

Chairman Siddoway asked how an increase in a wine tax might affect sales of local wines, and if people would still buy a bottle that cost \$26 if it were to become \$27. **Ms. Dolsby** replied that the wine industry is not opposed to a wine tax, and would welcome a discussion about where the funding might be appropriated if assessed.

PRESENTATION: **Chairman Siddoway** invited **Frank Muir**, Executive Director of the Idaho Potato Commission, to the podium to present the Idaho Potato Commission Annual Report.

Chairman Siddoway asked why the seed assessment brought 50% over the original budget. **Mr. Muir** indicated that the seed industry has a voluntary assessment as they want to be more involved in the industry. **Chairman Siddoway** asked about the effect of the potato cyst nematode (PCN) had on the Idaho potato industry. **Mr. Muir** said that when PCN was found, several international markets were closed, but the Idaho Potato Commission worked rapidly with the USDA and ISDA to formalize a plan to demonstrate the state is aggressively finding and regulating this quarantine pest. They were able to minimize the impact and reopen every market except for Japan. They continue to work with the USDA on a five year plan to improve regulation and sanitation, and to demonstrate that it's critical to maintain an international market for Idaho potatoes. Idaho still has a \$7 million per year commitment from USDA for regulation and eradication of PCN.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary. (See Attachment #8)

ADJOURNED **Chairman Siddoway** called the meeting adjourned at 10:28 a.m.

Senator Siddoway
Chairman

Christy Stansell
Secretary