

MINUTES  
**HOUSE RESOURCES & CONSERVATION COMMITTEE**

- DATE:** Wednesday, February 29, 2012
- TIME:** 1:30 p.m. or Upon Adjournment
- PLACE:** Room EW40
- MEMBERS:** Chairman Stevenson, Vice Chairman Shepherd, Representative(s) Wood(35), Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood(27), Boyle, Hagedorn, Harwood, Vander Woude, Gibbs, Pence, Higgins, Lacey
- ABSENT/  
EXCUSED:** None.
- GUESTS:** Patricia Felts, Self; Robert Forrey, Tax Acct. Comm., Todd Hatfield, Self; Emily Anderson, Kathy Opp, Tom Schultz, Idaho Dept. of Lands; Miguel Legarrete, Realtors; John Runft, Rachel Gilbert, Barbara Forrey, TAC; Erik Makrush, Idaho Freedom Foundation; Bert Marley, IEA
- Chairman Stevenson** called the meeting to order at 2:37 p.m.
- MOTION:** **Rep. Boyle** made a motion to approve the minutes of Thursday, February 23, 2012. **Motion carried by voice vote.**
- H 495:** **Rep. Vander Woude** gave a brief outline of the legislation. He said the emphasis of the bill before the Committee is the question: Should state government be in competition with private businesses? He said businesses have cycles and he questioned if the state is able and ready to go into those cycles. He said he felt the state is not. He stated that the state has to be careful of going into business because it is taking risks. He asked: Do we want the state to take this risk with the endowment funds? He said the key to the endowment fund is the revenue you can distribute. Another hindrance for the endowment to be in business is that state property can only be sold by auction, not by private sale.
- In answers to Committee questions, **Rep. Vander Woude** said the endowment land was given to the state to manage. He stated that owning and running a business goes beyond their scope. He also said the problem was not with investing the funds, but with owning a business.
- Rep. Burgoyne** said the state, through the endowments, would still be able to own land and own the improvements on the land, but could not own the business entity on the land. He said this bill brings together two values. These are: education and the funding for education, and a solid belief in free enterprise. He said the nature of endowments are long term and are to benefit future generations. Free enterprise is an important issue and he didn't think the state should be competing with private enterprise. He argued that the playing field is not level when the state does not pay property, sales or income tax. The state would have a competitive advantage over its competitor.
- Rep. Burgoyne** responded to the Committee questions saying last year and through the interim committee process, concerns were raised, and this bill addresses those concerns. He said the endowment fund issue is not all up to the State Land Board. The Legislature's obligation and responsibility is to find money to replace the endowment if the endowment loses money.

**Patricia Felts**, Self, spoke **in support** of the bill. She said the Department of Lands plans to engage in activities in direct opposition to the Constitution, which was founded on a private enterprise economy. She said there were three concerns with the plans of the Department of Lands. Those concerns were taxes, the management goals such as acquiring and selling land, and the structures and resources.

**Robert Forrey**, Tax Accountability Committee, said he has concern with where the State Land Board is heading regarding growing commercial assets. He said they plan to go into businesses, change social values and attitudes, operate private business, and become more competitive in the real estate business. He said the Supreme Court has stated that this is not the function of the State Land Board. He noted that the Board's purpose is two fold: to not put the endowment funds at risk and to not compete with the free enterprise system.

**Todd Hatfield**, Self, spoke **in support** of the bill. He said it is a myth that the state is competing with Potlatch and other mills. He said the mills set the price and they work backward for the appraisal. He said the appraisal is set by the mill and the state gets the maximum return from companies that compete for the timber. He urged the Committee to support the bill for the private property rights of the public.

**John Runft**, Tax Accountability Committee, said he was involved in drafting the legislation. He said this is concise legislation that will limit the state from getting into private enterprise. He said the proceeds from the sale of trust land would be put into the permanent endowment trust, then invested in land. The legislation helps prevent the expansion of a new agency. He also said that the money going into the permanent endowment fund will protect the long term investment.

**Rachel Gilbert**, Tax Accountability Committee, spoke **in support** of the bill. She said the Department of Lands has an aggressive management plan to acquire more speculative retail. She said the Land Board should not be managing these types of businesses. She asked: Do the people of Idaho approve of state ownership of property in competition with private ownership? She said commercial real estate is very volatile and the state should not be involved in that business, those funds should not be put at risk. She urged the Committee to support **H 495** and to protect the free enterprise system.

**Rep. Wood(35)** introduced her grandsons that were attending the Committee meeting.

**Erik Makrush**, Idaho Freedom Foundation, spoke **in support** of **H 495** and stated he believes in the free market system.

**Tom Schultz**, Director, Idaho Department of Lands, said he respects the concerns raised during the interim committee meetings. He said the Department's motive is to manage land and raise revenue for schools, offering relief for tax payers. He said they believe in the free market place. He said they are in long term management and they want to see another 100 years of revenue; managing land requires investments. He said the legislation is clearly trying to limit the type of land used to invest in assets. He addressed the concern with the proposed change to the Land Bank Fund. He noted that the proceeds from a sale go to the fund and the Board has up to five years to invest those funds. He said they have done 26 transactions since the Land Bank Fund was created. The majority of the transactions have been a benefit. Mr. Schultz said the Land Bank Fund is an essential tool and if it were eliminated it would make the state a cash buyer. The Land Bank Fund provides flexibility.

In response to Committee questions, **Director Schultz** said most states in the west are natural resource states. He said the move to the commercial market has been more recent. Some states are doing this, some are not. He said all states are trying to figure out how to increase revenue and they do have a responsibility to make money. He said the state is ultimately trying to do right thing and if we are not, the Legislature will tell us.

**Rep. Burgoyne** said it is clear the Department is not taking a position on the bill. He said it is a policy issue for the Committee on what the bill does and doesn't do. He said the bill requires the state to refrain from owning a business entity; the state can still own the land.

**MOTION:** **Rep. Higgins** made a motion to send **H 495** to the floor with a **DO PASS** recommendation.

**ROLL CALL VOTE:** **Rep. Harwood** requested a roll call vote. **Motion carried by a vote of 16 AYE, 1 NAY, 1 Absent/Excused.** **Voting in favor** of the motion: **Reps. Shepherd, Wood(35), Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood(27), Boyle, Harwood, Vander Woude, Gibbs, Pence, Higgins, Lacey.** **Voting in opposition** of the motion: **Rep. Stevenson. Rep. Hagedorn was Absent/Excused.** **Reps. Vander Woude and Burgoyne** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the Committee, the meeting adjourned at 4:08 p.m.

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Representative Stevenson  
Chairman

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Susan Werlinger  
Secretary