

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 05, 2012

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Werk, and Stennett

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.

CALL TO ORDER: The meeting was called to order by Chairman Pearce at 1:30 p.m.

APPROVAL OF MINUTES: **Senator Heider** made a motion, **seconded** by **Vice Chairman Bair** to approve the minutes of February 22, 2012. The motion **passed** by a unanimous **voice vote**. **Vice Chairman Bair** made a motion, **seconded** by **Senator Siddoway** to approve the minutes of February 24, 2012. The motion **passed** by a unanimous **voice vote**.

CONTINUATION OF S1271 LANDS DEPT. GRAZING LEASES: This item was continued from the meeting of March 2, 2012. This proposed legislation will amend Idaho Code 58-302, that requires applicants for state grazing leases to submit a grazing management proposal as part of their application. The proposal allows the Department to conduct a preliminary analysis of whether or not an applicant's proposed use is consistent with the Department's resource objectives and management expectations for the lands applied for. The grazing proposal, when approved by the Department, then becomes the grazing management plan for that lease.

PRESENTATION: **Senator Brackett** said he wanted to declare a possible conflict of interest under Senate Rule 39H because he has a state land lease and he has ownership interest in a ranching operation that has state land leases. **Senator Brackett** said he was bringing forward this proposed legislation on behalf of the Owyhee Cattleman's Association and the Idaho Cattle Association. This bill corrects the failure of the rules process and legislative intent.

Senator Stennett said she was confused about trying to reinstate the former language that was lost. **Senator Brackett** said he did not fully understand how this happened. He stated that during the overhaul of the grazing rules, numerous sections were deleted, some were revised and some were added. He said industry asked that the grazing management plan requirement that was in the old rules be retained. He thought the grazing management plan contained the old rules when they were approved. He commented he carried the rule acceptance on the floor and that is what he thought he carried, but when they came out, the rule that required the grazing management plan was not there. **Senator Brackett** said this bill simply just puts the plan back in and it also aligns with the new rules. He further stated the plan is between the prospective lessee and the Department.

Senator Werk said he wanted to understand the process completely. He said when he looked at current statute and when he looked at the rules, he was wondering when there were grazing leases up for bid, whether or not there was a requirement that those grazing leases be used for any particular purpose. **Senator Brackett** said he thought there were around 5% that actually went to bid. He stated that the others were not conflicted. He further stated that with the new rules additional categories were added. A conservation lease, for example, was in a different category and energy may be a category. Some of them are compatible and some of them are not.

Senator Werk wanted to know if this would be a conservation plan rather than an allotment lease. He asked with a grazing lease, did it have to be just for grazing. **Senator Brackett** said it had to be used for grazing. **Senator Werk** indicated that if a conservation lease was desired, then a lease would have to be applied for. **Senator Brackett** pointed out that the Department may not require that a proposal be presented at the time of renewal for every lease.

Senator Werk asked if the Department had the money to review these applications. **Senator Brackett** said they do not want to increase the paperwork and there would only be a small number that would be contested. These changes will have no effect on the general fund.

TESTIMONY:

Bob Brammer, Assistant Director over the Range & Lands Division with the Department of Lands, said there were about 1,300 grazing leases on 10 year lease terms and 120 expire every year. Less than 10% would be conflicted and someone else would apply for that grazing lease. **Mr. Brammer** said without a lease conflict, we have a grazing lessee that has an existing plan that's identified in these provisions of the lease. He commented they do not want someone to resubmit a new proposal for what they are doing already. There are 10-12 new applicants who have to submit a proposal. The Department staff reviews and goes through the proposal with the applicant and management actions are incorporated into the lease that is offered that applicant by special provision. The process goes from the proposal, negotiation, and the final approved management plan. **Senator Werk** asked why the wording was not in the rules anymore. **Mr. Brammer** said that when the rules were done, the wording got changed. There was a section that addressed grazing management plans and the requirement for the submittal of the grazing management plan with a grazing lease application. When we redrafted the rules that section was replaced and we deleted it and replaced it with a section that dealt with non-conflicted leases under the new process that the board had approved. It was his understanding that because that happened, the non-conflicted section we all agreed to as a proposal, that those changes would be accepted. That the explanation that he received from the folks that understand how these rules are formatted.

Again, he said, here was an opportunity for us to remedy that or waive it. From the Department's perspective he wanted to make it clear that this bill has enabled work on the language and it is something that can be incorporated into the current process. This doesn't create an undue administrative burden to the Department.

TESTIMONY:

Wally Butler, Range and Livestock Specialist with the Idaho Farm Bureau, said he was a part of the negotiations and he sat on the Idaho Cattleman's Association Task Force. The process was belabored in putting together the initial package of grazing rules that were changed in '09. He said it took several years of analysis to go through that in conjunction with the Department and this truly was an oversight that the livestock folks wanted to have the deleted grazing rules language reinstated.

TESTIMONY:

Wyatt Prescott, Executive Vice President of the Idaho Cattleman's Association, said the cattle industry supported this bill. The Task Force said they wanted to see the wording placed back into the rules.

Senator Tippetts said he had a conflict of interest as he has some state land leases.

MOTION:

Senator Tippetts made a motion, **seconded** by **Senator Heider** that S1271 be sent to the floor with a "**do pass**" recommendation. The motion **passed** by a unanimous **voice vote**.

**CONTINUATION
OF S 1282,
SPECIAL
INCENTIVE
HUNTING
TAGS**

This item was continued from the meeting of March 2, 2012. **Senator Brackett** presented this bill. This legislation would provide sportsmen access to private land in exchange for the ability of landowners to sell special landowner tags. The legislation would change public policy, which the Fish & Game Commission would establish by rule, a program to provide special tags to hunt antelope, elk or deer in designated units. To be awarded a tag, the private landowner would allow hunters reasonable access.

Senator Brackett said he had a possible conflict of interest under Rule 39 (H) of Senate rules. He is a land owner and he does have an ownership interest in a ranching operation and he could qualify for an LAP tag, but never applied for and has never received a LAP tag.

Senator Brackett said sportsmen are losing areas in which to hunt. He outlined the legislation as cited above. He said he did not want to interfere or make changes. He pointed out that consensus was reached between the Department of Fish and Game and the Department of Agriculture, based on a mutual understanding that sportsman access to private land could be increased in exchange for landowners receiving LAP tag allocations that could be sold with negotiated conditions.

Senator Brackett said he knew there was opposition to selling tags, but times have changed. He indicated there are more and more "no trespassing" signs and if we do nothing, that will continue. **Senator Brackett** said the Idaho Fish and Game Commission voted to support SB1282. The Wildlife Advisory Committee has by consensus voted to support this bill with some conditions or policy elements of which he was in complete agreement.

Senator Brackett said he supports S1282 and the recommendations of the Department of Fish and Game and the Department of Agriculture's Advisory Committee. The recommendations are as follows: a) Rules for tag allocation should follow the current LAP tag program and any additional rules should be adopted by the Idaho Fish and Game Commission; b) The Idaho Fish and Game Commission should determine the types of tags, designated units (or portion thereof), and other implementation issues consistent with their current authorities; c) Sportsman access and other conditions for participation in this program must be a negotiated contract (on an individual basis) between the landowner and IDFG and be monitored as part of the acceptance of sellable LAP tags; d) This should be a pilot program and, as such, should be used on a limited basis and have a mechanism in place to assess its effectiveness in providing sportsmen access; e) Implementation of the pilot program should result in "Zero Opportunity Loss to Sportsmen." The pilot program should use a component of existing LAP (Landowner Appreciation Program) tag allocations and no new, additional tags should be allocated. f) The pilot program should remain separate from the current LAP program except that the tags for this new program should come from the current LAP allocation; and g) There must be a strong mechanism in place that will allow supervision and prevent misuse of the pilot program.

Senator Brackett said this was an opportunity to reverse the trend. Senator Werk and Senator Brackett had a discussion about the law and this pilot program, reasonable access, and voluntary participation on the part of the land owner.

TESTIMONY: **Sharon Kiefer**, Deputy Director of Fish & Game, talked about S1282. A copy of her testimony is attached to the minutes. She said that this proposed legislation creates a new section of law authorizing the Commission to establish a new program with rulemaking; to provide special incentive tags to hunt antelope, elk, or deer in designated units. Ms. Kiefer supports S1282. **Senator Tippetts** asked **Ms. Kiefer** several questions regarding the authority and enforcement for the tags.

Chairman Pearce cited page 2, lines 21-22, stating that if one was a good negotiator with the Department of Fish & Game, could one get more tags. **Ms. Kiefer** said certainly relative to what the land owner is going to offer that is a possibility. That is no different than their "Access Yes Program" in terms of who is going to offer up a land access agreement for payment. **Senator Pierce** asked if there were any problems with the "Access Yes" as far as local people who are upset about unfair treatment. **Ms. Kiefer** said she was not aware of any problems. **Chairman Pearce** said there was not a guide or standard to keep things equal. **Ms. Kiefer** said there were standard rating criteria that could be used as a model.

TESTIMONY: The following people testified in **support** of S1282: **Wyatt Prescott**, Idaho Cattleman's Association; **Dar Oberding**, Idaho Grain Producers and former Fish and Game Advisory Committee Chairman; **Wally Butler**, specialist for the Idaho Farm Bureau; and **Jack Oyler**, Sportsmen for Fish and Wildlife Board of Directors.

The following people testified in **opposition** to S1282: **Angela Rossman**, Idaho Wildlife Federation.

A copy of the testimony is attached as applicable.

Senator Brackett said there were a small percentage of LAP tags that would qualify under these special incentives and 10% or 20% that would be determined by rule. He said he understood there was a strong philosophical barrier that this bill seeks to overcome and that times are changing. **Senator Brackett** said he would prefer to go in this direction rather than just selling access. While that might work for landowners, certainly sportsmen don't get anything out of simply having access, so he asked for the Committee's consideration.

Senator Siddoway said he had better declare a conflict of interest under Senate Rule 39H.

MOTION: **Senator Heider** made a motion, **seconded** by **Senator Cameron** that S1282 be sent to the floor with a "**do pass**" recommendation. The motion **passed** with a unanimous **voice vote**. **Senator Stennett** voted **nay** and **Senator Werk** voted **nay** and both wished to be recorded.

H 461: This legislation will amend Idaho Code section 36-408 to allow for out-of-state 501 (c) organizations complying with IRS standards to certify disabled military veterans eligible in regard to issuance of free big game permits.

TESTIMONY: **Sharon Kiefer**, Idaho Department of Fish and Game, said that over the course of implementation, the bill sponsor and the Department were contacted by certain veteran's groups who have a 501 (c) (19) status rather than 501 (c) (3) status, yet they provide services for disabled veterans and they requested not to be excluded from participating in the program. The 501 (c) (19) status is specific to veterans' organizations and appears to be consistent with the intent of the program. House Bill 461 would add this definition to the qualified organization definition, which seems like a reasonable approach to the Department. Her testimony is attached to the minutes.

MOTION: **Senator Tippetts** made a motion, **seconded** by **Senator Stennett** that H461 be sent to the floor with a "**do pass**" recommendation. The motion **passed** unanimously by **voice vote**. **Senator Heider** will carry the bill.

H 457:

This bill will amend Idaho Code 36-405(c)2(b) to allow a parent or grandparent to designate a control hunt tag to their child or grandchild of minor age according to rules prescribed by the Fish & Game Commission. This bill will allow family members to enhance a youth's hunting opportunity and experience. The minor child must either be licensed to hunt or a participant in the Fish & Game mentored hunting program. Sale of the designated control hunt tag will not be lawful.

TESTIMONY:

Sharon Kiefer, Idaho Department of Fish & Game testified and a copy of her testimony is attached to the minutes. She said the idea is to create a mechanism to allow parents or grandparents to redesignate a control hunt tag to their child or grandchild, called the TTY (Transfer Tag to Youth).

Senator Cameron asked should this bill pass and becomes law and a grandparent passes this on to their grandson or granddaughter, would that tag be a youth tag or would it remain as an adult tag. **Ms. Kiefer** said that would depend on what the cost is and the Commission wants public input as to whether that tag should be purchased at a youth tag price or at the full adult price of the original applicant.

Senator Cameron asked if that was for the tag or the permit as well. **Ms. Kiefer** said the fees are the same fees for the application as they don't have a reduced fee for minors to apply for a tag. They actually pay for a resident or nonresident tag, the same kind of controlled application fee that their parent or grandparent would, so that is taken care of in the actual application for the tag. **Ms. Kiefer** said they draw and what we conceptually envisioned was that you would have to designate what tag is being purchased at what price and that is what the Commission would seek in public input. In terms of whether you stay the course with an original tag that was applied for, which is an adult tag, but it could be a senior DAV tag, which is actually the same price as a junior tag, so at that point there is not really a price differential.

Senator Cameron said the youth tag allows youth to legally shoot something of either sex, and if they draw a buck or a bull tag and the grandparent decides to give it to his grandson or granddaughter, would that tag be considered an adult tag or would it be a youth tag by which the grandchild could hunt either sex.

Ms. Kiefer said they currently have a rule for youth who can pull an elk general tag and they can be used in both A tag and B tag opportunities. What she said **Senator Cameron** was speaking of was that either sex, and her understanding was and she said she would check on this and get back to him right away, is that is tied to the nature of the controlled hunt, not the tag itself. **Ms. Kiefer** said they do have youth hunts that the tag was drawn for. Obviously, an adult cannot draw a tag from a youth controlled hunt.

Senator Cameron said by inference, what **Ms. Kiefer** was saying to him was that an adult cannot draw a youth tag and these tags would be considered, even if they are in that same hunt, one could have either a youth tag or an adult tag and these would be considered adult hunts. **Ms. Kiefer** said that was the intent of the Commission, but one could choose whether one is going to have the applicant pay the full adult price for that adult tag or the junior price, but the privileges of the tag would be as an adult tag.

Chairman Pearce said that if there was a child who was 13 years old and he had two grandfathers, they could both put in for a controlled hunt tag for him and he could even put in one for himself and so he has three chances to draw one tag. How do we justify that? **Ms. Kiefer** said he could not, though, be designated for more than one tag, so the child has to decide which hunt is the hunt he wants to participate in and both grandfathers either can consider other grandchildren or they can prepare to go hunting themselves.

Chairman Pearce asked if they had to name the child? **Ms. Kiefer** said they do not have to name him at the time they apply, but they can name him once they do indeed draw. **Chairman Pearce** said both grandparents put in with the intention of helping "Johnny" out, then "Johnny" also puts in for his own draw and he is really pulling three chances. Once that draw is made and one grandfather says he has one for him, he knows he can't buy two as far as permits for an actual kill, but he does get three chances to get in the hunt. **Ms. Kiefer** said he only gets one tag and so there is nothing now that precludes multiple hunt applications. In fact, we have our first draw and our second draw and we let people put multiple hunts down on their application. Even now they have multiple opportunities to put in on different hunts. Clearly, they would advise family coordination in terms of this process.

MOTION: **Senator Bair** made a motion, **seconded** by **Senator Werk** that H457 be sent to the floor with a **"do pass."**

SUBSTITUTE MOTION: **Senator Tippetts** made a motion, **seconded** by **Senator Siddoway** that H457 be sent to the **amending order**. **Senator Siddoway** said this needs to be clarified because the bill specifically says, "to a minor child" and it does not specify that it's that child's parent or grandparent that has to designate a control hunt tag. Something can be abused and there is a pretty good chance it will be. He is certainly supportive of what we are trying to do with this bill.

VOTE: The motion **passed** by a voice vote. **Senator Tippetts** will carry the bill.

Senator Tippetts asked if **Ms. Kiefer** from the Fish & Game Commission, would be willing to give the Committee the language that **Chairman Pearce** would be comfortable with.

H 525: **Representative George Eskridge** presented H 525. He said this legislation provides that the Idaho Fish and Game Commission develop rules that exempt from tag possession to take wildlife for a disabled hunter companion who is assisting a disabled hunter possessing the appropriate tag and a valid disabled combination license. He stated the reason the bill was before them today was because he had a situation in his district where a constituent who is disabled, shot a game animal and he did manage to get to the animal who was wounded and finish the animal off. However, he was accused by Fish & Game law enforcement that instead of him doing the final deed, that his helper had done that and so as a consequence, in the middle of the night, they knocked on his motel room and they accused him of this and confiscated his game. The constituent was taken to court and Fish & Game dropped the lawsuit, but they did keep the meat. During the process, it was admitted by Fish & Game staff that their rules regarding handicapped helpers were vague and not clear. That is the reason for this bill for Fish & Game to identify exactly the ability of a handicapped helper to help that handicapped person and would allow that handicapped helper to finish off the wounded animal in the event that the handicapped person cannot do that act themselves. **Representative Eskridge** said other states have similar provisions.

TESTIMONY: **Sharon W. Kiefer**, Idaho Department of Fish & Game, testified in favor of this bill. She said that Idaho law and Fish & Game Commission rules make certain allowances for disabled hunters regarding the use of hunting aids, equipment and motor vehicles where they are otherwise prohibited. However, she commented that currently, Idaho law and Commission rules do not allow any hunter to tag an animal that another person has killed. **Ms. Kiefer** said that currently they have no lawful allowance for someone to provide final dispatch of an animal that a disabled hunter may have wounded but cannot access. A copy of her testimony is attached to the minutes.

- MOTION:** A motion was by **Senator Werk**, seconded by **Senator Stennett** that H 525 be sent to the floor with a "**do pass**" recommendation. The motion **passed** by a unanimous **voice vote**. **Senator Keough** will carry the bill.
- H 543:** **Representative Marc Gibbs** presented this bill which amends Idaho Code 36-1508 (b) to allow children younger than age 10 to possess a firearm for hunting if they are participating in the Fish & Game Mentored Hunting Program. He said the Fish & Game brought a bill to the House Resource Committee and it was an introduction hearing. House Bill 543 literally is House Bill 456 with one exception. Bill 543 on line 11 changes the age from 12 to 10 and that could be important if there are mentored wild turkey hunts in the state of Idaho that can occur at age 10. In Idaho, one can be nine years old to participate in hunter safety, one can hunt small game with the proper licenses from Fish & Game, for example, pheasants, ducks, wild turkeys, upland game, that type of thing and one would still be required to be 12.
- TESTIMONY:** **Ms. Kiefer** testified in support of this bill. Her testimony is attached to the minutes.
- MOTION:** **Vice Chairman Bair** moved, seconded by **Senator Cameron** that H543 be moved to the floor with a "**do pass**" recommendation. The motion **carried** by a unanimous **voice vote**. **Senator Bair** will carry this bill on the floor.
- H 459:** **Sharon Kiefer**, Deputy Director of Idaho Department of Fish and Game, presented this bill, which amends Idaho Code 36-407 and 36-416 to incorporate a nonresident three-day fishing license into the adult nonresident hunting license with no change in the license fee. This bill will enhance the nonresident recreational experience for those who might also desire to fish while hunting in Idaho. A copy of her testimony is attached to the minutes. She asked for the Committee to support this bill.
- Senator Siddoway** asked **Ms. Kiefer** if she could explain to the Committee why we excluded steelhead. **Ms. Kiefer** said they felt given the significant pressures they already have with those species, as well as a fairly significant cost for that permit, and since those were mitigation programs they already have a nonresident three-day license that does offer that opportunity. She stated a nonresident who wanted to purchase that license was at a pretty reasonable price. This was based on the concept that you are in the back country where there are mountain lakes and river segments that, if one wanted to take a little time to do something different as part of the hunt, one would have that opportunity relative to fishing. A copy of her testimony is attached to the minutes.
- MOTION:** A motion was made by **Senator Stennett**, seconded by **Senator Heider** to send H 459 to the floor with a "**do pass**." The motion **passed** with a unanimous **voice vote**. **Senator Stennett** will carry the bill on the floor.
- ADJOURNMENT:** **Chairman Pearce** adjourned the meeting at 2:55 p.m.

Senator Pearce
Chairman

Linda Kambeitz
Secretary