

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, March 14, 2014

TIME: 1:30 P.M.

PLACE: Room WW55

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

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.

CONVENED: **Chairman Pearce** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 P.M. He welcomed the audience members to the meeting and said discussion of **H 597** would continue as it has been carried over from Wednesday. He advised those that wanted to testify that they would be limited to three minutes.

TESTIMONY: **Mr. Daniel Luker** testified in opposition to **H 597** and is representing himself. His concern is regarding consumptive use, as the wild game belongs to all Idahoans. Also, he feels that the bill is too broad. Another issue is the removal of the oversight provided by the Outfitters and Guides Licensing Board (OGLB) on private land. He suggested sending the bill to the Amending Order to review it further.

TESTIMONY: **Mr. Pat Cudmore** also testified in opposition to **H 597**. He said this bill is in direct contradiction to Idaho Code § 36-1604 which became law to encourage landowners to allow free access to their lands and to protect them from liability. He questioned if we can have a law that allows charging permission to enter private land when we have a law on the books that is opposed to that. Idaho Code § 36-1604 implies if a landowner charges for access they are not protected from liability, and nothing in this law protects landowners from liability from client injuries, death, etc.

Mr. Cudmore stated that there are no restrictions as to who may become a guide. Also, there is nothing in this legislation that defines what a guide/outfitter is and he feels this bill will make hunting and fishing a rich man's sport. In closing, **Mr. Cudmore** urged the Committee to oppose **H 597** for the reason that our Idaho hunting heritage deserves this protection for our future generations of sportsmen and access that we all enjoy. A copy of his testimony is on file (see attachment 1).

TESTIMONY: **Mr. Jim Lowe** is here on behalf of the Food Producers of Idaho, representing a broad base of Idaho agriculture and natural resource interests. Their membership has over 40 farms, agribusinesses, and commodity organizations. They are in support of this legislation because of the implication of private property rights.

TESTIMONY: **Mr. Jay Stark**, representing himself, said he is opposed to **H 597**. He is a member of the Idaho Sportsman Caucus Advisory Council, which has 25 sportsman's organizations that are involved, and he is not aware of any of them being included in the conversations with the Farm Bureau regarding the drafting of this bill.

TESTIMONY: **Mr. Daniel Butler** is a rancher and is opposed to **H 597**. He owns and operates the Springfield Ranch near Bliss, Idaho and is a firm believer in private property rights. He feels that every landowner has a right to be an outfitter, but they must obtain the license to do so. **Mr. Butler** said that around 100 years ago, his grandfather started the Idaho Society for Civil Engineers and was awarded license number 1. Since that time, almost every profession in the State requires a license. The reasons for licenses for outfitters are just as valid as all those other professions.

Mr. Butler also owns an outfitting business and is licensed for deer and elk hunting on seven private ranches, the BLM and IDL properties. He talked about the need for insurance as an outfitter and also as a rancher.

TESTIMONY: **Mr. Paul Waldon** is a resident of Boise and testified in opposition to **H 597**. He has hunted waterfowl since 1980 and turkey since 1983. He was asked to serve as a sportsmen's representative on the Idaho Chapter of the Wild Turkey Federation Advisory Group. **Mr. Waldon** said that he is a staunch private property rights advocate. Guiding and outfitting on private land for game and fish, owned by the state of Idaho, is no more right than it is for him to operate a rock crushing plant on ten acres that is inside the Boise city limits. He said that if this bill is allowed to pass, it will have unintended consequences and collateral damage - do not let it pass.

TESTIMONY: **Chairman Pearce** invited Mr. Hendricks to "wrap up" the discussion on **H 597**. **Mr. Hendricks** said it has been a very thorough and interesting discussion and reminded the Committee what **H 597** does - and that is to remove the requirement for a landowner to have to pay \$450 every year to the OGLB for a license to hold some recreational activities on their property. The bill does not change the existing OGLB operations and he asked for the Committee's support of the bill.

WRITTEN TESTIMONY: Written testimony was submitted by **John Huber, Nick Purdy, and the staff at Picabo Angler** in opposition to **H 597**. Their testimony is on file (see attachment 2).

WRITTEN TESTIMONY: Written testimony was submitted by **Linda Rider**, Rider Ranch, in support of **H 597**. Her testimony is on file (see attachment 3).

WRITTEN TESTIMONY: Written testimony was submitted by **Mark Harris** in support of **H 597**. His testimony is on file (see attachment 4).

WRITTEN TESTIMONY: Written testimony was submitted by **Milan Zabka** in support of **H 597**. His testimony is on file (see attachment 5).

MOTION: **Senator Heider** moved that **H 597** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Vice Chairman Bair**.

SUBSTITUTE MOTION: **Senator Cameron** made a substitute motion. He moved that **H 597** be held in Committee. **Senator Stennett** seconded the motion.

Senator Stennett stated that she has two issues with the bill. She would like a better definition of "landowner" and more clarity regarding insurance.

Senator Cameron said he is a strong supporter of private property rights but feels the bill goes beyond the intended scope of purpose. Waterways and waterfowl are an issue that needs more attention. He would like to see more research done on this bill.

Senator Brackett inquired if a license was needed for him to take a friend hunting on his property. He was told that if he didn't charge or advertise, a license was not needed, as the current law now stands.

Senator Tippetts said with regards to the landowner, he feels it is the person who legally owns the land or someone who is legally authorized to act on behalf of the landowner. As far as waterways, it is up to the landowner to know where his/her property boundary is located. The issue of taking public resources is a more difficult issue. **Senator Tippetts** said that the Department of Fish and Game controls the taking of consumptive use, and they determine when and how many animals are taken, and the State receives the revenue from the license and fees for that consumptive use.

Senator Tippetts said landowners need to be recognized for the contribution they make to the State, considering the cost and destruction that game animals cause on the landowner's property - consuming food, breaking fences, etc. **Senator Tippetts** said it seems like a reasonable thing to do to allow a landowner to use his or her property and to be able to charge a fee for providing services to people who may hunt on their property without being required to get a license from the OGLB.

Vice Chairman Bair spoke to the waterway issue and said the high water mark is the defining line between private property and Idaho waterways. All water belongs to the state of Idaho. A guide with clients in a boat would need a license, but an owner on his or her private land would not.

Vice Chairman Bair stated that he has had some concerns about the expansion that has happened over the years with the OGLB. He had some research done regarding the outfitters and guides, and he said that clearly, guiding and outfitting was intended for backcountry uses when the law was put into effect in 1951. The next major change came in 1961 when they required an outfitter to accompany photographers in the backcountry (where automobiles could not go). The next change was in 1976 with more expansions to include boats, river craft, and rafting. It was also taken from the Department of Fish and Game, and the OGLB was created. The current law includes overnight trail riding, backpacking, mountaineering, cross country skiing, alpine skiing, snowmobiling, survival courses, fishing courses, motor and non motor cycling, wagon rides, sleigh rides, and dogsled rides. **Vice Chairman Bair** feels that the outfitters have expanded too far and if a landowner wants to have a wagon ride on his property and charge admission, they should be able to do that without having to acquire an outfitters and guides license.

Senator Siddoway said that as a property owner, he is declaring a conflict of interest under Senate Rule 39. **Chairman Pearce** asked the other Committee members if they so wished to declare a conflict, which they did. **Senator Siddoway** said there will be abuses and if the bill passes, it will need to be revisited next year.

Senator Heider feels that too much is being read into the bill. The bill allows people to use their private property any way they want and it is a good bill.

Chairman Pearce said that he usually doesn't weigh in on the discussions of the bills, but he said you either believe in property rights or you don't. He then asked for a roll call vote on the substitute motion.

**SUBSTITUTE
MOTION:**

Voting aye for the substitute motion of holding **H 597** in Committee were **Senators Lacey, Stennett, and Cameron**. **Senators Tippetts, Heider, Siddoway, Brackett, Bair, and Pearce** voted nay. The motion failed.

**ORIGINAL
MOTION:**

Voting aye for the original motion of sending **H 597** to the floor with a **do pass** recommendation were **Senators Tippetts, Heider, Siddoway, Brackett, Bair, and Pearce**. Voting nay were **Senators Lacey, Stennett, and Cameron**. The motion carried. Chairman Pearce will be the sponsor.

- HJM 10:** **Senator Patrick** said that **HJM 10** deals with the Columbia River Treaty. This Memorial urges the U.S. State Department to support certain positions in negotiations with Canada regarding any modification or future implementation of the Columbia River Treaty. In 1961, there were some reservoirs built in Canada to help control the floods in the Columbia River and to produce electricity, which was effective. In the process of renewing, there is some controversy between countries and other interests. **Senator Patrick** stated that this Memorial is to address how Idaho feels and to ask the U.S. State Department to intervene on Idaho's behalf.
- MOTION:** **Senator Siddoway** moved that **HJM 10** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Vice Chairman Bair**.
- TESTIMONY:** **Mr. Brian Patton**, Idaho Department of Water Resources (IDWR), reported that the Water Resource Board has been participating in this process and is in support of **HJM 10**.
- Senator Stennett** inquired as to whose jurisdiction this will be, and is Idaho asking the federal government to assert on our behalf in the international treaty. **Senator Patrick** said it is for Idaho and also for the Columbia River Basin, which is in the northwest. Only a small part is in Canada.
- Chairman Pearce** said a motion had been made to send **HJM 10** to the floor with a **do pass** recommendation. The motion carried by unanimous **voice vote**. Senator Patrick will be the sponsor.
- H 398:** **Ms. Sharon Kiefer**, Deputy Director, Idaho Department of Fish and Game (IDFG) presented **H 398**. She stated that the Fish and Game Commission (Commission) supports this bill.
- The Commission has legislative authority to use Commission orders to discount tag fees upon finding a biological, public, or unsold tag need. Currently, discounts must be framed in terms of specific species, units, areas, zones or gender to encourage increased tag sales and any Commission order is effective only for a specific time period.
- This bill would give the Commission authority to also discount licenses and permits in addition to their current discount authority for tags. This proposal gives the Commission more flexibility for the basis of the discount, including to encourage every-year license purchase, or to encourage purchasing multiple tags and permits, or to encourage people to hunt, fish, and trap - both residents and non residents.
- The Department has been open about their desire to shore up their license revenue to meet legislatively approved programs, keep up with inflationary costs, and fulfill necessary governance decisions about statewide employee compensation. As an example, important and necessary decisions of the 2014 Legislature that benefit their employees will need to be funded with close to \$1.1 million in additional license revenue.
- The sale of licenses, tags, and permits currently comprises about 35 percent of their total budget and supportse several programs, such as enforcement, WMAs, and the resident hatchery program. A full copy of Ms. Kiefer's testimony is on file (see attachment 6).
- MOTION:** **Vice Chairman Bair** moved that **H 398** be sent to the floor with a **do pass** recommendation. The motion was seconded by **Senator Cameron**. The motion passed by unanimous **voice vote**. Vice Chairman Bair will be the sponsor.

H 470:

Senator Brackett said he first wanted to explain what **H 470** is and is not. He said the bill is a funding bill and is necessary for wolf management, including control. Former funds are being suspended or reduced by the federal government. This funding bill is necessary to ensure that Idaho's objectives to address wolf depredation and conflict are funded. Just because the Feds walked away from their responsibility doesn't reduce conflict or mean that the problems will go away.

Senator Brackett then explained what **H 470** is not. It is not a wolf management bill, nor is it a wolf extermination bill. It does not compensate owners for their losses. Funding has decreased and more control will equal less depredation and less need for compensation dollars. There is a misconception that this bill only allows for lethal control. Non lethal actions for domestic animal protection is not excluded from funding considerations with the Fish and Game's License Fund (Fund) in **H 470**.

Senator Brackett said that page 1 of the bill is legislative intent and he read from Section 1 as follows: "The Legislature finds that additional financial resources are needed to help continue in the implementation of Idaho's wolf management plan. It is the intent of the Legislature to establish a governing board to provide funds for the management and control of depredating wolves in Idaho." Section 2 identifies each of the five members that will comprise the board. **Senator Brackett** explained the remainder of the bill, reviewing the power and duties of the board, the Fund, assessments, and matching assessments.

In closing, **Senator Brackett** said to summarize, the top priority is to continue the delisting status for wolves and at the same time, continue to manage and control the depredating wolves. Idaho's probationary period ends in 2016, and to be successful we must keep the State's management and control in line with Idaho's proven wolf management plan. Wolves are classified as big game animals, just like mountain lions and black bears. This was done in part to ensure everything is delisted and under state management. Wolf trapping and hunting by sportsmen are the preferred methods of management and control, but in some areas, hunting and trapping has not been sufficiently effective in reducing livestock and elk depredation. Last year, 2013, there were 43,505 hunting tags sold and 478 trapping tags sold.

Senator Brackett stated that he asked the Attorney General for his opinion and that office raised a constitutional issue. They reported that the number of departments in state government is limited, and a suggestion was made to amend the bill to place it within the Office of the Governor. If the Committee is so inclined, **Senator Brackett** suggested to send the bill to the 14th Order (Amending Order) for possible amendment. He then yielded his remaining time to the cosponsor of the bill, Representative Gibbs.

Representative Gibbs said he had nothing to add to the presentation by Senator Brackett.

After a lengthy discussion by the Committee, testimony was taken from the audience.

TESTIMONY:

Voicing support for **H 470** was **Mr. Stan Boyd**, on behalf of the Idaho Wool Growers Association. They understand that it raises assessments on their resources. They voted to assess two cents per pound on wool to go towards the Fund.

TESTIMONY:

Mr. Ken Cole, Western Watersheds Project, opposed **H 470**. He objects to taking money from the Fish and Game license fees and giving it to the Fund. He feels the livestock owners should pay for wolf control. **Mr. Cole** also stated that wolf numbers have decreased by 30 percent since 2009.

- TESTIMONY:** **Ms. Deb Lord** said she is in support of **H 470** and she serves on the Idaho Fish and Game Advisory Committee. She is also a volunteer with the Idaho Cattle Association. **Ms. Lord** said she wanted to point out that the money that goes into the Fund is replacing the federal funding that will be discontinued. She stated that they chose to get a handle on the depredating wolves, rather than ask for compensation for damages. **Ms. Lord** said she wanted to remind people that the money will be used to only control wolves that are depredating, it is not population control. There is a lot of depredation that occurs on private land.
- TESTIMONY:** **Mr. John Robison**, Public Lands Director, Idaho Conservation League, said they are in opposition to **H 470**. They feel that the creation of a new board is redundant and unnecessary. Idaho has an Animal Damage Control Board and this board may receive and disperse funds from any source for the purpose of controlling predatory animals. **Mr. Robison** said this is not the best use of public funds. He recommended that funds from the General Fund and the Livestock Fund should be made available for the additional option of non lethal proactive control.
- TESTIMONY:** **Mr. Russ Hendricks**, representing the Idaho Farm Bureau Federation, said they support **H 470**. Wolves don't always recognize boundary lines between public and private land and increasingly, more and more depredation is occurring on private property in spite of all the efforts of the ranchers. He said **H 470** agrees with what the Task Force put together when the Governor addressed this issue. **Mr. Hendricks** said the members are not thrilled about raising fees on themselves and feel it is the responsibility of the federal government to manage the wolves that they reintroduced in Idaho.
- TESTIMONY:** **Mr. Zachary Jones**, representing himself, said according to science and biology, more wolves are better and less are not. He would like the Committee to do a better job of understanding the science behind the wolves and their importance in the environment, as he would like to walk among them. **Mr. Jones** said he feels that this bill has a hidden agenda and it is not meant specifically for funding, as it will allow Governor Otter to appoint all five members of the Board and he would have open control. We all know his standpoint on wolves. **Mr. Jones** is upset and he feels there are members on this Committee that have broken the law when it comes to harvesting wolves.
- Vice Chairman Bair** objected to Mr. Jones' comment, as did Senator Siddoway. **Mr. Jones** asked if he was wrong and was told that he was "dead wrong". **Mr. Jones** then told Senator Siddoway that in 2009 he broke the law. At that point, the Chairman gaveled Mr. Jones down and said that ended his testimony.
- TESTIMONY:** **Mr. Stephen Goodson**, Special Assistant to the Governor for Natural Resources, said he is here today to speak in favor of **H 470**. With regards to a separate board, **Mr. Goodson** said the Governor specifically requested that the board have oversight over the funds if the State was going to put General Fund dollars into this account. In the Governor's State of the State address, he said the three pronged approach will provide the revenue needed to more effectively control Idaho's wolf population and ease the impacts on our livestock and wildlife.
- TESTIMONY:** **Mr. Dar Olberding**, Chairman of the Fish and Game Advisory Committee, said that they have worked long and hard on this issue for three years and now they are in favor of doing whatever it takes.
- TESTIMONY:** **Mr. Wyatt Prescott**, Executive Vice President of the Idaho Cattle Association, said they are in full support of **H 470** and are supportive of the all-inclusive Board that this legislation provides. The Association is in full support of the \$25 fee that will be levied at the time of brand registration.

TESTIMONY: **Ms. Sharon Kiefer**, IDFG, provided copies of her testimony to the Committee (see attachment 7) and is also on file. She stated that regardless of one's views about wolves, the State of Idaho has an enduring management responsibility. Idaho has supported and promoted delisting and we have clearly accepted wolves as a state management challenge. We are currently in a five year period of delisting oversight by the United States Fish and Wildlife Services until May 2016.

She continued her testimony by saying it is clear that at least for the near term, wolves will be expensive to manage. IDFG alone has spent well over \$1 million in FY 2013. In contrast, they sold 48,630 hunting tags and trapping tags, bringing in less than \$400,000 in revenue. The cost of wolf management has been exacerbated by diminishing federal funds to uphold the Idaho Wolf Conservation and Management Plan, approved by the Legislature in 2002 and used as a foundation for federal delisting.

For the 2013-14 wolf season to date, a total of 177 wolves have been harvested by hunting and 87 harvested via trapping, and the season continues. The Fish and Game Commission has continued to authorize hunting and trapping rules and seasons that are effective and efficient that maintains a regulated season and a wolf population that precludes need for any federal status review for relisting.

Ms. Kiefer stated that **H 470** is about funding and funding oversight for wolf depredation control. It does not implement specific management actions, that remains the purview of the IDFG. The bill has a sunset clause of 2019 to allow the Legislature and stakeholders to evaluate the "need" - is the funding framework of **H 470** still effective and efficient? Do fund sources need realignment? The Commission supports **H 470** and believes it merits a do pass from the Committee.

MOTION: **Vice Chairman Bair** moved that **H 470** be sent to the 14th Order for amendment. The motion was seconded by **Senator Cameron**.

Senator Siddoway said that he needed to declare a conflict of interest as he pays into these funds and has had conflicts with wolves. Other Committee members declaring a conflict of interest were **Senators Brackett, Heider, Bair and Pearce**.

Chairman Pearce said a motion had been made to send **H 470** to the 14th Order for amending. The motion carried by unanimous **voice vote**. Senator Brackett will be the sponsor.

ADJOURNED: **Chairman Pearce** adjourned the meeting at 4 P.M.

Senator Pearce
Chair

Juanita Budell
Secretary