

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, March 30, 2015

**TIME:** 1:00 P.M.

**PLACE:** Room WW55

**MEMBERS PRESENT:** Chairman Bair, Vice Chairman Vick, Senators Cameron, Siddoway, Brackett, Heider, Nuxoll, 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 Bair** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:00 p.m.

**MINUTES:** **Vice Chairman Vick** moved to approve the Minutes of March 18, 2015. **Senator Heider** seconded the motion. The motion carried by **voice vote**.

**MINUTES:** **Senator Stennett** moved to approve the Minutes of March 23, 2015. **Senator Lacey** seconded the motion. The motion carried by **voice vote**.

**MINUTES:** **Senator Heider** moved to approve the Minutes of March 25, 2015. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**.

**HCR 8** **Chairman Bair** presented **HCR 8** for Representative Raybould, Chairman of the House Resources and Conservation Committee, who had another commitment.

**Chairman Bair** said this House Concurrent Resolution authorizes the Legislative Council to appoint a two-year committee to undertake and complete a study of natural resource issues, including issues relating to water. The committee would be comprised of five Representatives and five Senators from the Legislature. The committee would make a progress report to the Second Regular Session of the Sixty-third Idaho Legislature and shall make a detailed report to the First Regular Session of the Sixty-fourth Idaho Legislature.

**MOTION:** **Senator Siddoway** moved that **HCR 8** be sent to the floor with a **do pass** recommendation. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**. Chairman Bair will be the floor sponsor.

**HJM 9** **Representative Boyle** presented **HJM 9** and said this House Joint Memorial is asking the U.S. Senate and House of Representatives to recognize and encourage state primacy in the long-term management and protection of sage-grouse and its habitat while protecting state economic interests, educational funding from state lands, and valid existing rights, including private property rights. A task force has been working on this, and it is made up of both state and federal agencies, ranchers, sportsmen and conservation groups. U. S. Fish and Wildlife Services (FWS) said that this looked to them to fit adequate regulatory mechanism, which is required in the Endangered Species Act (ESA).

**TESTIMONY:** **Mr. John Robinson**, Public Lands Director, Idaho Conservation League (ICL), said they are opposed to **HJM 9** as currently written. ICL worked with a broad collaboration of stakeholders over several years to develop Idaho's state conservation plan, and he was also honored to serve on the Governor's Task Force. **Mr. Robinson** said that this Joint Memorial increases a sense of uncertainty and draws out over a ten year period.

**Senator Brackett** stated that he and Mr. Robinson served on the State Sage-Grouse Plan, (and he mostly agrees with what Mr. Robinson said). **Senator Brackett** said it is a good plan and was good enough to be selected as the preferred alternative by the Bureau of Land Management (BLM). Unless ICL's plan has enough time to be implemented and assess the results, then the State runs the risk of the whole process being short-circuited. **Senator Brackett** said he differs with Mr. Robinson on the time element.

**Mr. Robinson** replied that he works best under a deadline and there isn't enough time to get the perfect plan done. He feels that the State's Sage-Grouse Task Force Plan will be able to stand on its own in September; however, it would be helpful to have a little more time. **Senator Brackett** said he wished to make a statement; he strongly feels the need to have time to fully implement the plan and then time to assess the results.

**TESTIMONY:**

**Mr. Russ Hendricks**, Idaho Farm Bureau (IFB), testified in support of **HJM 9**. He stated that they have had a long-standing policy of opposing the listing of the sage-grouse and appreciates the points made by Senator Brackett. **Mr. Hendricks** said that Idaho is a leader in managing sage-grouse and that **HJM 9** is simply allowing enough time for the management plan to get some data and to see how effective it is. IFB appreciates Representative Boyle bringing this legislation forward and asks that it be sent forward with a do pass.

**Senator Stennett** said if Idaho is a leader in the 11 western states, is it fair to stall and be left behind in the effort to bring other states up to Idaho's level in this work. **Representative Boyle** said this is not viewed as stalling, it is helping the other states to catch up to where Idaho is. This does not just affect Idaho, it affects the entire West.

**MOTION:**

**Senator Siddoway** moved that **HJM 9** be sent to the floor with a **do pass** recommendation. **Senator Brackett** seconded the motion. The motion carried by **voice vote**. Senator Brackett will be the floor sponsor.

**HJM 10**

**Representative Brandon Hixon** said the purpose of this legislation is to encourage the FWS to work with Idaho stakeholders to reconsider the excessive boating, hunting, and hiking restrictions in the proposed Deer Flat National Wildlife Refuge Comprehensive Conservation Plan. This also recognizes the critical importance of local stakeholder input on any future wildlife refuge conservation plans in the State of Idaho.

**Representative Hixon** stated that the problem centers around Lake Lowell in Canyon County. It has been designated as a National Wildlife Refuge, and the original plan was to remove all people from off the lake, implement a 25 shot shell limit, and establish that no more than four at a time may go walking on the trails. This seems to be excessive and unnecessary federal regulations. **Representative Hixon** said that they have come together as a federal delegation and a state delegation telling FWS the need to come together on these issues and that Idaho stakeholders want to be a part of the discussions.

**Senator Brackett** said he wanted to compliment Representative Hixon for his hard work in trying to address the issues concerning Lake Lowell and for bringing in as many collaborators as he has.

**MOTION:**

**Senator Brackett** moved that **HJM 10** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. Senator Lodge will be the floor sponsor.

## H 291

**Representative Miller** said **H 291** is in regards to exemptions on disclosures. This legislation will protect farmers, landowners, and ranchers who want to enter into a management agreement with FWS to gain candidate conservation agreements with assurances. Farmers and ranchers are accustomed to dealing with the Natural Resources Conservation Service (NRCS) and Farm Service Agency (FSA). All their private and business information is held confidential and they are accustomed to that. FWS is not set up the way NRCS is, as they are open. Any management plans that are done directly with FWS are open and are then public record. The purpose of this process is to gain protection from takings if the sage-grouse is listed.

**Representative Miller** stated that he asked the Attorney General's office for an opinion and they concluded that some records would be protected and some would not. **Representative Miller** then read the last paragraph from their letter. He stated that it would provide a sense of comfort and more freedom for landowners to go through this process and work with FWS through conservation districts. He also added that the Boise staff of FWS are okay with this legislation.

## TESTIMONY:

**Ms. Betsy Russell**, President, Idaho Press Club (Club), had sent an e-mail earlier to the Committee members regarding the Club's concerns about **H 291** (see attachment 1). She testified that the Club's First Amendment Committee had concerns about the bill; not about the issues addressed, but about the integrity of the Idaho Public Records Law. They have absolutely no position relating to sage-grouse or the many other resource issues that come before this panel. **Ms. Russell** said they are just concerned about an overbroad exemption being added to the Idaho Public Records Law. They did look at the Attorney General's opinion that Representative Miller obtained, and in the letter it cites the existing exemption of the Idaho Public Records Law for things that federal law already makes private.

## MOTION:

**Senator Brackett** moved that **H 291** be sent to the floor with a **do pass** recommendation. **Senator Heider** seconded the motion. The motion carried by **voice vote**. **Senators Stennett** and **Lacey** asked to be recorded as voting nay. Senator Heider will be the floor sponsor.

## H 265a

**Representative Gestrin** presented **H 265a** which would provide for an interstate compact on transfer of public lands. In the 2013 Legislative session, HCR 21 was passed to establish the Federal Lands Interim Committee to study the transfer of federal lands to Idaho. One recommendation from the Interim Committee was to pursue the creation of a compact with the other western states. This legislation amends Title 58 and adds a new chapter that would create the ability to enter into an interstate compact on the transfer of public lands and establishes how the compact would operate.

The costs of the compact are unknown at this time because the compact commission has not been formed. When the costs are known, **Representative Gestrin** said they would report back to the Legislature and to JFAC to make the appropriate request for dues. This legislation sets up the framework for how the compact is to proceed. The compact goals take effect when two states have become member states and adopted the terms in the legislation and when Congress votes to consent to the terms of this compact under the United States Constitution Article I, Section 10.

**Senator Cameron** stated that he had several questions for Representative Gestrin regarding this legislation:

1. Did you write this draft or is it model language? **Representative Gestrin** replied that it is language adopted by Utah and Arizona.
2. You started the legislation, but then modeled it after other states' legislation. Is that a fair characterization? **Representative Gestrin** said that was true.
3. **Senator Cameron's** next concern was fiscal. What he heard Representative Gestrin say is different than what he reads in the bill. What Senator Cameron thought he heard Representative Gestrin say is the determination of what the costs would be, then whoever Idaho appoints would come back to the Legislature and the Legislature would determine if that was acceptable, then decide whether to pay the bill. What is in the bill under Funding, Section 7, page 4, is that huge authority is given to this compact. On line 34, the compact commission may levy and collect annual assessment or impose fees to cover the costs of its annual budget. There is no mention of what could be in the budget. The only out is on line 44 where the State must notify in writing within 60 days before the vote to impose the annual assessment. There is no way of knowing what the fees might be before the meeting. On page 5, the first line says the aggregate annual assessment amount shall be allocated based on a formula to be determined by the compact commission, which shall (not may) adopt a rule that is binding on all member states. **Senator Cameron** said that sounded like a blank check and asked for help to understand it. **Representative Gestrin** said that he feels Idaho is protected because whoever Idaho sends there has no authority to spend any money until it has been appropriated. On page 4, line 41, they can vote against any annual assessment. **Representative Gestrin** said that's where his comfort comes in.

**ADJOURNED:** **Chairman Bair** said he appreciated Senator Cameron's line of questioning but it must end for today and continue on Wednesday. **Chairman Bair** adjourned the meeting at 2 p.m.

---

Senator Bair  
Chair

---

Juanita Budell  
Secretary