

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, April 01, 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. He welcomed the audience to the meeting and said the hearing for **H 265a** (which was introduced on Monday) would resume today with questions from the Committee. He then asked Representative Gestrin, author of the bill, to provide a brief summary of Monday's discussion.

H 265a **Representative Gestrin** said this bill sets up the framework to describe how the interstate compact would operate, and he indicated that some of the former questions centered around the compact's financial arrangement. He provided a copy of Title 16, Juvenile Proceedings, Chapter 19, Interstate Compact for Juveniles, Article VIII B. **Representative Gestrin** said the wording in the compact's agreement is very similar, if not the same, to the Interstate Compact for Juveniles, and he has not heard of any problems that they might have had. **H 265a** has an opportunity for an out clause, some of the other compacts do not.

Senator Stennett inquired about withdrawing from the compact and what the costs might be. **Representative Gestrin** said the State could be liable, but he believes an amendment would clearly state that all moneys are subject to appropriation. He has prepared an amendment. **Senator Stennett** said that it appears that Representative Gestrin wants this all set-up before there is congressional action and she asked for an explanation. **Representative Gestrin** replied that the compact does not take effect until two states have become members and Congress votes its consent.

Senator Stennett then raised the question of the compact and the power of the compact commission. **Representative Gestrin** said the members of the compact make up the compact commission and they cannot begin until Congress has acted. **Senator Stennett** inquired about the executive branch being left out and asked if that was their decision. **Representative Gestrin** said he did not believe it was. **Senator Stennett** asked about the amount of money other states might require for being a member of the compact and if Idaho would be forced to pay that amount. **Representative Gestrin** said the amendment clearly states that the money must be appropriated.

Senator Lacey asked if Idaho is a member of the compact commission and the Legislature decides not to appropriate the money, could the State be sued. **Representative Gestrin** replied that could be the worst case scenario, but he has not heard of that happening.

Senator Heider was concerned about unknown costs and when they might occur. **Representative Gestrin** said that the language states that it has to be appropriated, and when that number is known, there will be a fiscal note, then legislation will come before JFAC to request the appropriation. When that appropriation is secured, then the commission can go forward.

Senator Cameron said with regards to the fiscal issue, the difficulty is with the language. Words mean something, and when you say "binding" that causes concern. **Senator Cameron** said that if an appropriation is needed, then it should be asked for first, prior to agreeing to any of the expenses. **Representative Gestrin** replied that in a perfect world, that would be his preference also, but until the State is engaged and begins in the membership of the commission the cost will be unknown. He feels there are safeguards to protect the State. **Senator Cameron** asked what Representative Gestrin viewed the assessment as being based on. Was it population, land mass, federal lands within each state, or something else? **Representative Gestrin** said his view on the assessment is for the operation of the compact commission; not to commit Idaho into throwing money into a lawsuit. It can be equally divided among 12 states, if they all join.

Senator Cameron then asked where in the bill does the language say the assessment is only for the administration portion. **Representative Gestrin** said he could not say where it says that in the bill. The language was established for the compact commission and the intention is to participate when the number is known in the operation of the commission. **Senator Cameron** asked if Representative Gestrin had concerns about the compact being eventually controlled by other states who may not see things in the same vein as Idaho does and may incur costs associated with running this compact. **Representative Gestrin** said he appreciated Senator Cameron's concern, but he has faith in the process.

Senator Heider had questions regarding withdrawal from the compact and the six month liability. **Representative Gestrin** responded by saying this is new compact language. Idaho is presently participating in other compacts with similar language and he has not heard of any concerns with them.

Senator Brackett said this legislation primarily focuses on the transfer of federal lands. A handout was provided explaining the voting of U.S. Senators Crapo and Risch (see attachment 1). They voted in favor of a budget resolution amendment that paved the way for future legislation that would transfer federal land to state and local governments. The amendment doesn't authorize the transfer of any federal land, instead, it creates a mechanism which allows the U.S. Senate to take up future land transfer legislation without violating the Budget Control Act of 2011.

Senator Brackett feels that Idaho needs more of a role in the management of federal lands. He asked Representative Gestrin if he would consider an amendment that would have additional focus on increasing Idaho's role in the management. **Representative Gestrin** said absolutely, an amendment would be very appropriate and it could have latitude.

Senator Nuxoll stated that the whole purpose of the compact is to try to get money for Idaho. She inquired if the other states are seeking what Idaho is seeking. **Representative Gestrin** said he feels that is very true. The economies of the rural communities that have public lands is not good.

Senator Lacey said the purpose of this bill is to transfer federal land, as is the purpose of the compact. He then asked if the wording was changed to "help manage these lands", rather than transfer, does that change the purpose of the compact, and if so, do all the other states have to agree to that. **Representative Gestrin** said it would be very appropriate to add a dual purpose to the compact. The other states may or may not concur. **Senator Lacey** wondered what would happen if the other states did not concur. **Representative Gestrin** said Idaho would then be done.

Senator Stennett inquired as to where the funds for the compact would come from, if not from the General Fund. **Representative Gestrin** said that is where they would come from in the future. But today, he sees no fiscal impact on the General Fund. Later, they would ask for an appropriation.

TESTIMONY: **Mr. Fred Birnbaum**, representing the Idaho Freedom Foundation, testified in support of **H265a**. He said this is model legislation, as it has passed in Utah and is on the Governor's desk in Arizona. Some of the concerns and questions read too much into the bill. Idaho is a member of over 20 compacts, and Mr. Birnbaum feels this compact is tighter and more restrictive. He challenged the Committee to consider the alternative of not doing this compact.

TESTIMONY: **Mr. Steve Thomas**, lobbyist for the Idaho Forest Group, provided a sheet of information (see attachment 2) that he referred to in his testimony. He acknowledged that the interim committee had worked hard at the meetings held around the State, then reported back in January. The Majority Report stated that litigation is not the preferred path to resolve federal land management issues and also recommended exploration of interstate cooperation. **Mr. Thomas** concluded by saying that collaborative processes through the federal government, through the Idaho Congressional delegation, through the Good Neighbor Policy, and through the Farm Bill of 2014 give Idaho management tools to manage federal lands better. He stated that **SCR 126** embraces those concepts.

TESTIMONY: **Mr. Jim Chmelik**, Chairman, Idaho County Commissioner, testified in support of **H 265a**. He said entering into these compacts is crucial for the rural communities across the West. If he had access to those lands, he could put people to work and they would not be on unemployment or receiving food stamps, they'd get paychecks. **Mr. Chmelik** said he has a difficult time when he hears words like we are spending money where we don't want to spend it, but when we do want to spend money, then it's an investment. He is agreement with Senator Cameron that words do have meaning. Federal land in Idaho County amounts to 85 percent and the federal government is not known for good management of the lands. He urged the Committee to consider this bill.

TESTIMONY: **Mr. John Reuter** said he is with Conservation Voters for Idaho and they oppose the takeover of public lands. They are most concerned about the funding mechanism and the withdrawal language. He stated that there are better places to put Idaho's energy into solving the issues on federal lands.

Vice Chairman Vick asked Mr. Reuter if he felt he had as much say being here in the meeting as he would have if he were a Senator. **Mr. Reuter** said he has respect for the elected officials and the work that they do, and the role that he plays here, as well as the other people that come forward, is a significant role in the process. He said that perhaps he is not cynical enough now about politics. **Mr. Reuter** said that those that oppose the bill are making an impact, are part of the process, and they are being listened to and making a difference. **Vice Chairman Vick** said there is a difference between not having a vote and having a vote.

Vice Chairman Vick asked what fees the compact can assess. **Mr. Reuter** said the answer is that maybe no one knows. He then referred to the bill, Section 7 - Funding, page 4, line 35, subsection 3c, that says "levy on and collect an annual assessment from each member state or impose fees on other parties...". **Vice Chairman Vick** said the way he reads the bill is the only fee that can be charged is the annual assessment.

TESTIMONY: **Mr. Russ Hendricks**, Idaho Farm Bureau, said they support the bill. There are approximately 20 other compacts that Idaho is a party to. He is not aware of any runaway bills with the Juvenile Compact, and if there were, he feels they would have been made aware of the circumstances.

TESTIMONY: **Senator Winder** said that some of the issues that have been brought up could be covered by some of the proposed amendments and by working with the congressional delegations.

Representative Gestrin stated that amendments had been prepared for some of the suggestions that had been made, and he requested that the bill be sent to the 14th Order for amending.

MOTION: **Senator Nuxoll** moved that **H 265a** be referred to the 14th Order for amendment. **Vice Chairman Vick** seconded the motion.

Vice Chairman Vick said there have been concerns about this legislation and some of it can be addressed, but he would like to talk about some of the things that are in the legislation that already, in his opinion, protect the State from some of the concerns. On page 3, Section 4, line 27, it says "each member and associate member state agrees to perform and comply in accordance with the terms of membership of this compact consistent with the constitution and laws of the member or associate member state." **Vice Chairman Vick** said that addresses one of the concerns about obligating debt. The compact can't do anything that isn't consistent with the constitutional laws of member states, and that is one limitation which is a positive thing.

Vice Chairman Vick then read from the bill, page 4, Section 7 on funding, line 33, that says "The compact commission may, in accordance with subsection 3 (b) and (c), levy on and collect any annual assessment from each member state or impose fees on other parties ...". **Vice Chairman Vick** said the rest of the costs listed there are to be imposed on other parties. The only thing that Idaho can be charged with is the annual assessment, and Idaho has the opportunity to vote against the annual assessment, or if absent from the commission meeting, Idaho cannot be charged with the annual assessment. He stressed that is another protection that is in the legislation.

Vice Chairman Vick said that if this legislation is sent to the 14th Order, which he supports, on page 5 there is protection that was already mentioned that the compact commission pledge the credit of any of the member states, except by and with authority of the member state. Again, the Constitution and the laws of the State of Idaho would have to be followed. **Vice Chairman Vick** feels these are significant protections as to what Idaho can be obligated to financially. With the increasing fire danger from the mismanagement of federal lands, **Vice Chairman Vick** said the fallen timber, in his part of the State, blocks hunters and hikers from access to those lands, even when trails are open. To delay this legislation is not the right direction to take. Idaho would be much better off if the Senate tried to amend it appropriately so that it takes into account the concerns that have been raised. **Vice Chairman Vick** said with that, he supports the motion.

Senator Cameron said that he is not defending the management of our federal lands under the current scheme. There is obvious room for improvement, but he does not see this bill as the solution. It may be an avenue that should be investigated, but he does not see this bill as being the correct and right avenue. **Senator Cameron** said with respect, there were 20 compacts that were alluded to previously, but his search indicated there are close to 60 and it makes him concerned. Even if all 60 have the same language, he said it would give him heartburn. **Senator Cameron** said that he is not sure of how creating another layer of government, via a compact with other states, gets Idaho any closer, or protects, or advances the ball on any discussion of management of our lands. He said that even with the amendment, it helps, but still does not solve the problem. **Senator Cameron** said he does not see the comfort in the bill as Vice Chairman Vick and Senator Nuxoll sees in it. He said the bill needs a lot more adjustment than a simple amendment. For those reasons, **Senator Cameron** said he could not support the original motion and made a substitute motion.

SUBSTITUTE MOTION: **Senator Cameron** moved that **H 265a** be held in Committee. **Senator Siddoway** seconded the motion. The motion carried by **voice vote**. **Senators Brackett, Nuxoll** and **Vice Chairman Vick** asked to be recorded as voting nay.

HJM 11 **Representative Troy** presented this legislation. She said this HJM affirms Idaho's sovereignty over its water resources and expresses opposition to the removal or breaching of the dams on the Columbia-Snake River System and its tributaries. It also recognizes the unique and important role that the Port of Lewiston plays in supporting economic competitiveness and multi-modal transportation, and supports the multiple use benefits of the river system.

TESTIMONY: Testifying in support of **HJM 11** were Ms. Mary Hasenoehrl, Port of Lewiston; Travis Jones, Idaho Grain Association; Norm Semanko, Idaho Water Users Association; Representative Beyeler; Bob Geddes, Idaho Farm Bureau; and Will Hart, ICUA. Testifying in opposition of **HJM 11** was Jonathan Oppenheimer, Idaho Conservation League.

WRITTEN TESTIMONY: Written testimony was submitted by Food Producers of Idaho and Idaho Cooperative Council, both in favor of **HJM 11**.

MOTION: **Senator Heider** moved that **HJM 11** be sent to the floor with a **do pass** recommendation. **Senator Nuxoll** seconded the motion. The motion carried by **voice vote**. Senator Johnson will be the floor sponsor.

MINUTES: **Senator Siddoway** moved to approve the Minutes of March 30, 2015. **Vice Chairman Vick** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: **Chairman Bair** thanked the Committee for their hard work, then adjourned the meeting at 3:15 p.m.

Senator Bair
Chair

Juanita Budell
Secretary