

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, March 21, 2017

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Rice, Vice Chairman Den Hartog, Senators Patrick, Bayer, Guthrie, Johnson, Thayn, Foreman, and Jordan

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 Rice** called the meeting of the Senate Agricultural Affairs Committee (Committee) to order at 8:00 a.m.

MINUTES APPROVAL: **Senator Bayer** moved to approve the minutes of March 2, 2017. Seconded by **Senator Guthrie**. The motion carried by **voice vote**.

Senator Johnson moved to approve the minutes of March 7, 2017. Seconded by **Senator Thayn**. The motion carried by **voice vote**.

Senator Foreman moved to approve the minutes of March 9, 2017. Seconded by **Senator Jordan**. The motion carried by **voice vote**.

PAGE GRADUATION: **Farewell to Committee Page Melissa Freeman.** **Chairman Rice** asked Melissa Freeman to tell the Committee about her experience as a page for the Committee and plans for the future.

H 274 **Invasive Species.** **Senator Harris** stated that the Quagga and Zebra Mussel are a threat to the waters of Idaho. An infestation of these mussels will effect irrigation, power generation, recreation, and drinking water. The Invasive Species Working Group met several times over the summer months to study the Quagga and Zebra Mussel issue and that investigation found that in some areas of the State of Idaho ISDA could provide a better detection process for this invasive species; **H 274** addressed some of these issues. About two weeks after the Invasive Species Working Group met for the last time Quagga Mussels were discovered in a couple of reservoirs in Montana, fifty miles from the continental divide and an hour and a half drive from Henrys Lake in Idaho. **Senator Harris** stated the invasive species is at Idaho's doorstep and the State needs to become more proactive on detection measures. The Idaho State Department of Agriculture (ISDA) is doing a great job with a shoestring budget in their detection efforts. However, the program needs to be stepped up and current of this prevention process. **Senator Harris** explained the first part of the bill addresses placing an individual in the Idaho Office of the Governor as a policy advisor. This person would act as a coordinator to make sure that all departments of the State and agencies of the federal government are working together. This individual would be able to pulled together everyone at and above the State level to assist ISDA in their efforts to keep Quagga and Zebra Mussels out of the State. Page two of the bill outlines the responsibilities of the individual in the Governors Office. Section three of the bill will place in code the Idaho Invasive Species Council (Council). In the past the Council had been created by an executive order but that order has expired. This bill will make the Council permanent along with its duties and the policy and the policy advisor in the

Governor's Office will chair the Council. Page 4, Idaho Code §22-1906 lists the proposed duties for ISDA and the Director.

Possible amendments to the bill: page 3, line 46, delete "the exterior of a motor vehicle"; after "trailer" insert "the exterior of a motor vehicle"; on line 47, delete "noxious weeds, plants, weeds." Section 5, line 25, delete "all available." **Senator Harris** concluded because of these changes he requested the Committee send **H 274** to the 14th Order for amendment.

Senator Foreman stated his concern with the legislation related to the search of the inside of the conveyance. The station employees would need probable cause to search. **Senator Harris** stated that water gets into everything and the "villagers or mussels" are in that water. The inside compartments need to be drained and searched to make sure there is no water inside the compartments. On page 5, line 6, 7, and 8 answers this search question.

Senator Rice noted that this search is not for criminal activity. It would not result in criminal charges. The remedy to go beyond probable cause is just suppression.

Senator Patrick stated there is probable cause if a boat is coming from an infested area.

TESTIMONY:

Mitch Whitmill, Jefferson County Noxious Weed Invasive Species, spoke in support of **H 274** stating that he believed this is a good piece of legislation which will improve the inspections on the ground, give authority and direction to keep these mussels out of Idaho as long as possible. There must be resources in place along with guidance to accomplish the task in preventing an infestation in the State's waters.

Lloyd Knight ISDA, Administrator of Division of Plant Industries, spoke to a number of concerns that Director Gould has with **H 274**. This legislation does not provide any additional program funding or activities on the ground. JFAC spent a lot of time working with ISDA on a budget that includes significant funding for their activities throughout the State. ISDA has started boat inspection stations for the season and has caught three fouled boats coming through the stations. Yesterday a boat on its way to Canada, from Lake Havasu was inspected and they found viable mussels. This boat is now under a hold order for up to 30 days for decontamination and will sit out of water for a period of time to dry out. This legislation does not change or improve ISDA's authorities.

Under the current statute ISDA has the ability to perform inspections on all parts of a conveyance that presents itself for inspection. ISDA commonly inspects the bilge, the live wells, ballast tanks, exterior of the boats, and the trailer. When ISDA inspects boats they determine are high risk, ISDA offers to hot wash those boats because the statute does not allow them to force action on mussels they cannot see. ISDA performs about 1,300 hot washes a year, draining the ballast tanks, wells, bilge, making sure that everything is clean, drained, and dried when the boat leaves the station. JFAC did include funding for three additional stations on Interstate 15, U.S. 12, and State Highway 3 outside of Rose Lake. One of the stations is currently opened, the other two locations are being determined and contracted.

ISDA performed over 90,000 inspections statewide and this year they anticipate the number will go up with the additional three stations. JFAC also funded nighttime operations. ISDA views that this legislation with the policy coordinator position puts an additional layer of bureaucracy which is not needed. ISDA has a policy coordinator statewide that they work under today; the Governor provides that coordination for ISDA in the Executive Branch. In fact, ISDA coordinates with all their sister state agencies regularly on the current program. There are no issues with other states in getting what Idaho needs and matching that up with what they can provide.

As soon as ISDA found out that they were going to have three additional new stations ISDA started working with Idaho Transportation Department (ITD) to identify proper locations. The Governor oversees all of the Executive Branch Agencies and ISDA works through that office when they need to interface with other agencies. Director Gould coordinates with the Governor regularly in regards to any policy issues that the State is dealing with.

ISDA has concerns with the language and the definitions of invasive species and believes it must include noxious weeds. ISDA believes that this meshes in two different statutes which have very specific enforcement authorities and separate funding mechanisms. The noxious weed law is unique, and one of the first in the U.S. in regards to utilizing the powers that are vested with the counties through the weed superintendents, powers that are vested in the State, and the responsibilities that are placed on the landowners. To meld these two statutes together will create some confusion as to whether those authorities still reside with the weed superintendents or if there is a position over them competing for resources or authorities.

ISDA is currently pursuing federal funding, but there has not been much available. Until the awarded money came through from the U.S. Army Corps of Engineers there were no funds for invasive species and noxious weeds. ISDA has a policy position dating back to 2012 requesting that the federal government direct funds to addressing the issues on the Lower Colorado at the point of origin for all the fouled boats. ISDA is now applying for this same grant this year. As soon as the U.S. Army Corps of Engineers awarded money is available, the Department will apply it to monitoring some of these efforts.

Senator Den Hartog asked if ISDA is engaged in coordination with the new check stations with Idaho's bordering states to make sure that there are not duplicate efforts in the inspection process. **Mr. Knight** stated that ISDA does interact with the surrounding states on a regular basis. ISDA has perceived that they have not had the authority to share resources. They have discussed the possibility of pooling resources with bordering states but many do not have the resources. ISDA's authority resides in the State of Idaho. As ISDA identifies possible stations and the strategy to locate them within the State, they also look at what other states are doing in their programs. ISDA knows that the states on Idaho's southern border decontaminate boats before they leave those states. Idaho keeps its stations open to make sure all boats are clean. Utah might be running stations at night with the station coming out of Lake Powell. ISDA has had some coordination with Montana but most of Montana's efforts, until this year, have been concentrated on their eastern border. They were more concerned about traffic coming in from the Great Lakes; now that Montana has the mussel that will change. There will be some duplication as they work through the Montana issue, as far as how many times a boater may be inspected on a given highway. ISDA needs to do their best efforts and not trust that other states will cover the decontamination efforts.

Senator Den Hartog stated that today in testimony and previous hearings the Committee has heard many times from ISDA that they do not have the authority to do certain things. She asked Mr. Knight if he believed that **H 274** opens up some of these authoritative opportunities that ISDA has not had before in dealing with the stations. **Mr. Knight** answered he really did not think this bill enhances anything and does not see that ISDA is lacking anything that this bill provides. In regards to how ISDA runs the invasive species program and the authorities ISDA has in regards to inspection and enforcement, what ISDA already does in coordination with sister states, and with local and federal agencies. At times, ISDA has had issues with direction or authority. For example the question came up during the course of the summer with the working group the possibility of sharing resources with other states. This would be shaky ground for ISDA. ISDA would look for

direction from the Legislature in the form of intent language in an appropriation bill. If some agency says they want Idaho to share resources with Utah on a certain area of inspection or coordination ISDA would have some authority to make agreements and have conversations with other states.

Senator Guthrie questioned if a boat picks up some of these mussels in another body of water outside the State then launches the boat in an Idaho lake; what is the time period before ISDA would recognize the mussels in the lakes waters. Out of the 90,000 inspections that ISDA performed last year how many boats needed to be decontaminated. **Mr. Knight** answered that last year ISDA inspected approximately 90,000 boats and ISDA identified 19 boats that were carrying mussels; only one of the boats had viable mussels coming from the lower Colorado. The other 18 of those 19 boats showed that they had been in long term storage because the mussels were dry and crumbly. The biology of how long would mussel contamination be an issue depends on a number of issues. How long the boat mussels have been out of water, weather conditions, if they are villagers, and how long it will be until the boat launches in another lake.

Senator Patrick stated that he believed that ISDA was aware that there is extreme concern in the agriculture sector of the financial damage to the industry if Idaho gets the mussels. In Senator Patrick's district they have a canal system that is driven by gravity pressure from irrigation equipment. If the mussels were to develop within the irrigation system it would destroy the system. Highway 93 passes through his district and the station is only open part-time. Does ISDA know that this is a direct route to Lake Mead. If a boat owner loads there boat at Lake Mead to head to Idaho, it will be after sundown when the boat crosses the border into Idaho. There are three safe areas that have been identified to have a station on Highway 93. The current station is located in the worst location because of the 70 miles per hour speed limit, the station is hard to access, and there is no lighting. **Senator Patrick** asked why is the station not opened 24 hours and located where it is safe within a slower speed limit. **Mr. Knight** responded that when ISDA originally located the Highway 93 station, as they do with all of their stations, the first point of contact is ITD which searches out potential locations that already exist for a station location. The location at Rabbit Springs is an old roving weigh station site. Because it is an older site it is limited on ingress and egress and fairly isolated. Rabbit Springs was the best location ISDA had where the station was close to the border. JFAC did question whether nighttime operations were possible at this site. **Mr. Knight** contacted ITD about nighttime operations at the Rabbit Springs. ITD and ISDA both have concerns about the safety of the site for nighttime operations. If the federal money from the U.S. Army Corps of Engineers is made available or there are some State funds freed up ISDA could improve the Rabbit Springs site or locate another site on Highway 93 for current and future operations. **Mr. Knight** explained with the new budget from the JFAC appropriations it will just fund operations. Later in the year there might be some opportunities to free up resources to improve the Rabbit Springs site.

Senator Patrick indicated that anytime ISDA does not have nighttime operations at the Rabbit Springs site ISDA is allowing the Quagga Mussels access to Idaho. ISDA has done a good job of inspections at this point because Idaho does not have the mussels. Could ISDA seek out some private funding for these stations. **Senator Patrick** said if private funding was sought there would be adequate dollars to maintain the stations. **Mr. Knight** explained that ISDA has been focused on trying to run the operations they already have in their system. ISDA does not know what they are missing at night. ISDA will learn more this summer with the establishment of a nighttime station. This station will provide information about traffic flow and operations of stations. Other states that have run nighttime stations have had law enforcement agency supporting the staff and have found very little traffic coming through those stations at night.

Senator Rice asked if there were others who wished to testify concerning **H 274** could they briefly state their support or non-support of the legislation. **Jonathan Oppenheimer**, Idaho Conservation League stated that they supported the legislation.

MOTION: **Vice Chairman Den Hartog** moved that **H 274** be referred to the 14th Order for amendment. Seconded by **Senator Bayer**.

SUBSTITUTE MOTION: **Senator Patrick** made a substitute motion that **H 274** be sent to the floor with a do pass recommendation. The motion failed due to a lack of a second.

Senator Guthrie stated given the potential consequences of this issue he is troubled by the fact that ISDA is so against this new position being created in the Office of the Governor. **Senator Harris** replied as the working group looked at the inspection program, over the summer, it became apparent that the program needed to be updated and not everyone agreed on where to place a policy advisor. Some in the group deemed that the waters of Idaho were priceless and a position needed to be created, with an individual hired that could place their undivided attention on this issue.

The motion to refer **H 274** to the 14th Order for amendment carried by **voice vote**.

Senator Jordon stated that she will support the motion. Given the confusion, questions, and the variety of tools that are being brought to bear on the invasive species program the importance of having one place to identify the programs, conflicts, and potential fixes that Idaho might be able to fix going forward is critical to this effort.

HJM 006 **Ensure U.S. Agriculture Competes in Fair and Level Market Environment.**

Representative Armstrong said this memorial is to show support and loyalty to the Food Producers of Idaho. The importation of food is at the highest level ever in the U.S. The U.S. has the toughest restrictions and regulations on domestic food. This memorial simply states that Idaho would like to hold imported foods to the same high level and standards of the U.S. producers which is a matter of safety and fairness to the citizens of U.S.

TESTIMONY: **Sid Freeman**, representing Canyon County Farm Bureau, stated that he has come forward because he is a concerned third generation farmer carrying the message of all farmers that are concerned about this issue along with agricultural producers. Canyon County Farm Bureau Federation voted in favor of the memorial. In 2006 HJM 012 was passed. This memorial is important to guard the importation of food products such as fruits and vegetables which has dramatically increased over the past 15 years, while at the same time U.S. exports have remained stagnant. In the fall of 2015 agricultural producers had to retool their country of origin labeling. This was allowed to happen because of a ruling handed down by the World Trade Organization. This ruling was triggered by complaints from Canada and Mexico without country of origin labeling. The citizens of the U.S. now have no way of knowing which country is supplying their food. It is imperative that any food products that are brought into this country are dealt with in the exact same fashion as the domestic producers. Currently few physical inspections are being performed. The USDA is in charge of food security and there is a very low percentage of food inspections. In the importation of food the U.S. producers do not want to sacrifice food security by these current importation standards.

Senator Patrick stated this is an ongoing problem for the U.S. producers who compete in a market with nations who have no wage standards, no safety standards, and no chemical restrictions on their crops. The public needs to be informed about the differences in the foods they consume.

MOTION: **Senator Thayne** moved to send **HJM 006** to the floor with a do pass recommendation. Seconded by **Senator Guthrie**. The motion carried by **voice vote**.

HJM 008 **Invasive Species - Requesting Matching Federal Funds for FY 2018.** **Representative Raybould** said the House Environment, Energy and Technology Committee is requesting additional funding for the Quagga and Zebra Mussels checking stations in the efforts to keep this invasive species out of Idaho. There is a great potential that all of Idaho will be infected by this mussel. In southern and western Canada they have found Quagga Mussels in two lakes, which are very close to some of Idaho's waterways. The memorial asks the U.S. Administration and Idaho's Congressional delegation to allocate the four northwestern states \$8 million out of the \$20 million that has already been appropriated for this project.

MOTION: **Senator Patrick** moved to send **HJM 008** to the floor with a do pass recommendation. Seconded by **Vice Chairman Den Hartog**. The motion carried by **voice vote**.

H 293 **Veterinarian Renewal Fees.** **Representative Dayley**, stated this bill addresses the one year of renewal fee increase which will generate \$125,000 to purchase a computer system.

Senator Guthrie noted that the bill states that this increase is applicable for FY 2017, which is partly gone. Any veterinarian that has renewed their license prior to this bill was renewed at the lower rate. **Representative Dayley** pointed out that the Board of Veterinarian Medicine (BOVM) applies their renewal fee annually. The month of May is when all veterinarians must renew their licenses. This legislation does have an emergency clause so that the BOVM could collect the fees in May of this year and the bill would sunset before the May of 2018.

TESTIMONY: **Martin Bilbao** representing Idaho Veterinary Medical Association expressed their support of **H293**.

MOTION: **Senator Guthrie** moved to send **H 293** to the floor with a do pass recommendation. Seconded by **Senator Patrick**. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Rice** adjourned the meeting at 9:02 a.m.

Senator Rice
Chair

Carol Deis
Secretary