

MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Thursday, February 21, 2019

TIME: 1:45 P.M.

PLACE: Room EW40

MEMBERS: Chairman Gibbs, Vice Chairman Gestrin, Representatives Moyle, Shepherd, Wood, Boyle, Vander Woude, Mendive, Kauffman, Blanksma, Addis, Lickley, Moon, Raybould, Erpelding, Rubel, Toone, Mason

**ABSENT/
EXCUSED:** Representative(s) Vander Woude, Erpelding

GUESTS: Marsha Grand, self; Paul Kline and Sharon Kiefer, Idaho Department of Fish and Game; Allan Walburger and students, BYU-Idaho; Glen Prouty, Simplot/IMA; Lisa Anderson, Idaho Cumo Mining; John Eaton, Idaho Association of Commerce and Industry; Alli Olson and Jonathan Oppenheimer, Idaho Conservation League; Kevin Beaton, Stoel Rives/IMA; Benjamin Davenport, Idaho Mining Association; Michael Gibson, Trout Unlimited; Suzanne Budge, SBS Associates LLC

Chairman Gibbs called the meeting to order at 1:45pm.

MOTION: **Rep. Kauffman** made a motion to approve the minutes of the February 11, 2019 meeting. **Motion carried by voice vote.**

H 97: **Rep. Addis**, District 4, stated **H 97** builds upon **H 476**, which passed in 2018 and provides recreational immunity protections to governmental entities. **H 97** further clarifies recreational immunity protections also applies to private landowners that enter into agreements with government entities for recreational purposes when they do not charge individual members of the public for access. Rep. Addis explained currently private landowners can work with Idaho Department of Fish and Game to allow public access on or through their private property through the Department's existing voluntary Access YES! program. The Department is adding a new program for landowners with large tracts of property, 50,000 acres or more, that will also provide public access for recreational purposes. **H 97** will provide recreational immunity protections for landowners in both of these programs.

Emily McClure, Lawyer and Lobbyist, Riley Stegner and Associates, representing several large timber land owners in North Idaho, stated there are private landowners interested in participating in the public access programs and believe they would have recreational immunity protections based on case law, but prefer it be clarified in statute and **H 97** takes care of that issue.

Sharon Kiefer, Idaho Department of Fish and Game, stated the Idaho Fish and Game Commission is **in support** of **H 97**.

MOTION: **Rep. Moon** made a motion to send **H 97** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Addis** will sponsor the bill on the floor.

H 141: **Rep. Addis**, District 4, stated the Surface Mining Act, enacted in 1971, has a primary purpose to protect the taxpayers and the lands of Idaho by providing for reclamation activities and bonds for lands disturbed by surface mining activities. He said this bill will more accurately reflect the current mining industry and regulatory practices including addressing the surface impacts of underground mines and providing for actual cost estimation of reclamation and related environmental activities. He further explained this bill would update financial assurance methods requiring financial assurance for reclamation and long term post closure management activities, requiring reclamation plans and financial assurance reviews, and the ability to require reasonable fees to pay for any additional workload.

MOTION: **Rep. Mendive** made a motion to send **H 141** to the floor with a **DO PASS** recommendation.

Ben Davenport, Idaho Mining Association, stated they are **in support** of **H 141** because it is necessary to protect the viability of the industry. He explained this bill pushes back against threats from federal litigation, federal regulators, and anti-mining activists by creating an Idaho standard that works for the industry while protecting the taxpayers from potential liabilities.

Michael Gibson, Trout Unlimited, stated they have some concerns with this bill as they have worked on abandoned mines across the country and have seen the impacts to human health, watersheds, and trout. He stated they are not against mining but want to assure the proper bonding is in place when a mine closes down and are not leaving the taxpayers with the bill. He explained their concerns are with corporate guarantees being used for financial assurances because these assurances do not survive bankruptcy leaving taxpayers holding the bill to complete the clean up. Mr. Gibson stated after discussions with **Mr. Davenport**, they were assured if this bill passes, the financial assurances would be addressed through the rule making process.

Jonathan Oppenheimer, Idaho Conservation League, stated they have concerns regarding bonding, specifically with corporate guarantees and letters of credit. He stated they've seen in a number of instances when mining companies come into Idaho, they develop their mines, then eventually go bankrupt leaving the state holding the bill for clean up. On federal lands in Idaho, there are reports estimating over 5,000 abandoned mines with a liability in excess of over \$500 million dollars. Mr. Oppenheimer stated they would like to see more of a public process when reviewing bonds, and that those bonds be in perpetuity, rather than just 30 years, so taxpayers and future generations are not left with costs associated with clean-up. For these reasons, he requested **H 141** be held in committee.

Chairman Gibbs requested the record reflect nobody else came forward to testify on **H 141**.

Ben Davenport provided closing comments by stating although they recognize there were some concerns, they left the corporate guarantees in the bill because 19 other states use corporate guarantees as a tool for financial assurances. Additionally, using corporate guarantees as a financial assurance is acceptable with both DEQ and EPA. He stated he has full faith and confidence the Department of Lands and the Land Board will follow the procedures 19 other states used during the rulemaking process by establishing appropriate sideboards to financial assurances. The final point Mr. Davenport made was with the concerns over the 30 year limit. He stated the Land Board can continue to require longer than 30 years if they deem it necessary.

VOTE ON THE MOTION: **Chairman Gibbs** called for a vote on the motion to send **H 141** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Addis and Moon** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:23pm.

Representative Gibbs
Chair

Tracey McDonnell
Secretary