

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Tuesday, February 04, 2020

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Guthrie, Vice Chairwoman Den Hartog, Senators Patrick, Harris, Mortimer, Lent, Bayer, Jordan, and Nelson

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

MINUTES APPROVAL: **Senator Bayer** moved to approve the Minutes of January 14, 2020. **Senator Jordan** seconded the motion. The motion passed by **voice vote**.

PRESENTATION: **Frank Muir**, President/CEO, Idaho Potato Commission (Commission), presented the financial update of the Commission. He said the statutory requirement for the Commission is to present to the House and Senate Agriculture Committees the financial status of the Commission. He said his report will cover the budget as compared to the actual net.

Mr. Muir explained the revenue resources of the Commission for 2019; a potato tax and a federal grant program. He said the actual receipts received were about \$1 million higher. He detailed the budgeted expenditures of the Commission and reported that the actual expenses were lower; as a result, the Commission was able to add more funds to the reserve account. **Mr. Muir** gave the Committee a high-level overview of the 2020 Commission budget and explained the reduction of acreage planting and weather problems that impacted crop yield, which changed the poundage that was sold. He reported the money in the reserve account and explained how those funds are used and need to maintain a three-month reserve.

Mr. Muir detailed how the Commission worked with the University of Idaho to develop guidelines to help farmers and shippers minimize losses due to the early frost.

Mr. Muir gave an overview of the expenditures in the food service category of the Commission's budget. He said the programs of the Commission are separated into three selling categories: consumer, food service, and retail. He detailed specific programs in each of the categories. He reported the number of staff of the Commission and the work they undertake.

Mr. Muir gave a brief history of his time at the Commission and how he has worked diligently to promote and raise the connection of the potato to Idaho. He spoke about the variety of marketing programs and highlighted the New Year Potato Drop and the Idaho Football Potato Bowl.

RS 27484 **Colby Cameron**, Regulatory Analyst, Idaho Division of Financial Management (DFM), presented **RS 27484**, Relating to Animals; Repeal Hogs Running At Large Within Towns. He said the proposed legislation is consistent with the Red Tape Reduction Act (RTRA) and seeks to eliminate inactive provisions of the law regarding the taking up of trespassing hogs. The law has been on the books for over 100 years and is no longer applicable.

MOTION: **Senator Mortimer** moved to send **RS 27484** to print. **Senator Bayer** seconded the motion. The motion passed by **voice vote**.

RS 27517 **Senator Harris** presented **RS 27517**, Memorial for the Columbia-Snake River Water System. He explained the importance of the Joint Memorial and how it recognizes the purpose of the rivers and dams along the Columbia-Snake River water system. He spoke about Idaho being the only landlocked state with a seaport. **Senator Harris** detailed the amount of tonnage that is transported along the river and equated it to the number of train and semi loads it would take to transport that same tonnage. He stated that every life is affected by the economic impact of the rivers. The river and the dam systems provide affordable transportation, recreational opportunities, utilities, and river stability. **Senator Harris** said the Joint Memorial reiterates the importance of the Columbia-Snake River Water System to Idaho.

MOTION: **Senator Mortimer** moved to send **RS 27517** to print. **Vice Chairwoman Den Hartog** seconded the motion. The motion passed by **voice vote**.

PASSED THE GAVEL: Chairman Guthrie passed the gavel to Chairwoman Den Hartog.

DOCKET NO. 46-0101-1900F **Vice Chairwoman Den Hartog** announced to the Committee that **Docket No 46-0101-1900F** is being brought back before the Committee.

Jeremy Brown, Executive Director, Idaho Board of Veterinary Medicine, was unavailable to present. In his place, **Mr. Cameron** addressed **Docket No. 46-0101-1900F**, Rules of the State of Idaho Board of Veterinary Medicine. He said the Committee approved the docket at a prior meeting and after that meeting the DFM analyst found an error in the fee table. **Mr. Cameron** explained the meeting DFM conducted with Chairman Guthrie and Vice Chairman Den Hartog and asked that the Docket be brought back to Committee to address the error. He asked the Committee to support a motion to reject Section 011.01. He said the fee table will be corrected with a temporary rule and stated the intention is to keep the fees the same.

Vice Chairman Den Hartog directed the Committee members to review the specific fee table in the docket and explained the inadvertent fee addition that was added to the table.

When asked if the public is being charged the incorrect amount, **Mr. Cameron** replied in the negative. He stated that the incorrect fees had not been made public therefore the day-to-day work had remained with the same fee structure.

Senator Patrick complimented the rule writers for the great work they have accomplished with so few errors.

MOTION: **Chairman Guthrie** moved to approve **Docket No. 46-0101-1900F** with the exception of Subsection 011.01. **Senator Mortimer** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
46-0101-1902**

Mr. Cameron presented **Docket No. 46-0101-1902**; Rules of the State of Idaho Board of Veterinary Medicine. He asked the Committee to fully reject the rule because of errors in the fee table. Rejecting the rule would set it back to the prior year's fee table.

MOTION:

Chairman Guthrie moved to reject **Docket No. 46-0101-1902**. **Senator Lent** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
02-0414-1901**

Brian Oakey, Deputy Director, Idaho State Department of Agriculture (ISDA), presented **Docket No. 02-0414-1901**; Rules Governing Dairy Byproduct, a temporary rule which adopted and republished a previously approved and codified rule chapter. He explained the temporary rule resulted from two petitions received by ISDA in 2018. The first petition was submitted by the Milk Producers of Idaho and the Idaho Farm Bureau as a joint petition requesting the rule be modified to allow dairy farmers the option of choosing the phosphorus threshold method or the phosphorus indexing method of managing nutrients permanently. It includes a sunset provision through June 2023. The second petition came from the Idaho Dairyman's Association requesting the consideration for variations in soil phosphorus testing be built into the phosphorus threshold method.

Mr. Oakey detailed the negotiated rulemaking meetings, the sunset clause, and the need to meet stakeholder consensus. He said the stakeholders are asking the Committee to extend the temporary rule so it does not expire at the end of the 2020 Legislative Session. Approval of the temporary rule would allow the negotiated rulemaking group to continue to work towards resolution.

Mr. Oakey outlined for the Committee the issues of the rule that remain to be resolved. Those are as follows: 1.) whether to retain the phosphorus threshold method for managing dairy byproducts permanently; 2.) development of the nutrient management standard; 3.) determining an appropriate buffer to account for variability in soil phosphorus testing; and 4.) determining a trigger point that soil phosphorus levels require a transition to phosphorus indexing. He stated with those issues left unresolved, the majority of the stakeholders supported continuing the negotiated rulemaking.

DISCUSSION:

In response to a Committee question about the two different phosphorus gauging methods, **Mr. Oakey** explained the difference between phosphorus indexing and phosphorus threshold. He said the industry stakeholders are looking at options to address phosphorus levels and the cost associated with regulations.

Chairman Guthrie said this rule has had some very pointed discussion. The sunset of the threshold testing method has become a real concern. He said it is his expectation that the negotiations can be in good faith to allow flexibility in the testing methods. He emphasized the value in having the option to choose.

Chairman Guthrie asked that the negotiated rulemaking path be diligent in trying to afford options to different situations because not every dairyman is in the category where they would need to be required to do the indexing method.

Mr. Oakey thanked the Chairman for his perspective. He said the industry stakeholders that have been part of the negotiated rulemaking and the feedback that they have given to ISDA has been very clear that there is a need for some options in their industry. Members have also raised concerns about costs associated with the regulations associated with this rule. He said those concerns are being considered and are part of the rulemaking record.

MOTION:

Senator Patrick moved to approve **Docket No. 02-0414-1901**. **Senator Nelson** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
02-0405-1901**

Dr. Bill Barton, Administrator, Animal Industries, ISDA, presented **Docket No. 02-0405-1901**, Rules Governing Grade A Milk and Manufacture Grade Milk. He said this is a new chapter that streamlines and simplifies all rules related to milk production. The new chapter consolidates four previously approved and codified rules: manufactured grade milk, license dairy plants, grade A milk and milk products, and milk and cream procurement and testing. He said there were no substantive changes made to rule and it complies with the RTRA. He stated there was negotiated rulemaking with no comments and the Idaho Code § 22-101A analysis was made on the rule which determined there are provisions in the rule that are more stringent than federal regulation. He stated this is a fee rule with no changes. The fees under this rule are authorized by Idaho Code §§ 37-407, 37-503, and 37-511. **Dr. Barton** said the new chapter addresses regulations pertaining to different phases of milk production, including the inspection, production processing analysis, and transport of grade A milk and manufactured grade milk.

MOTION:

Senator Harris moved to approve **Docket No. 02-0405-1901**. **Senator Patrick** seconded the motion. The motion passed by **voice vote**.

**DOCKET NO.
02-0430-1903**

Dr. Barton presented **Docket No. 02-0430-1903**, Rules Governing Environmental and Nutrient Management. He said this is a new chapter and streamlines and simplifies all rules related to general environmental regulations on livestock facilities. The new chapter consolidates four previously approved and codified rules; agricultural odor management, CAFO site advisory team, nutrient management, and stockpiling of agricultural waste. There were no substantive changes made to the rules and they completed the work in compliance with the RTRA to update and eliminate repetitive and redundant language. Negotiation rulemaking was performed, and no comments were made. An Idaho Code § 22-101A analysis was performed and determined that the rule in its entirety regulates an activity not regulated by the federal government. The rule addresses the inspection of regulated facilities, regulation of odor, waste stockpiling, nutrient management, and CAFO site approval for regulated facilities.

In response to Committee questions, **Dr. Barton** said if a facility is non-compliant with the odor rules, the director is empowered to work with that producer to develop an odor management plan. Each plan is unique to the facility.

MOTION:

Senator Mortimer moved to approve **Docket No. 02-0430-1903**. **Senator Jordan** seconded the motion. The motion passed by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairwoman Den Hartog passed the gavel to Chairman Guthrie.

ADJOURNED:

There being no further business at this time, **Chairman Guthrie** adjourned the meeting at 8:59 a.m.

Senator Jim Guthrie
Chair

LeAnn Mohr
Secretary