

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, March 11, 2021

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Burtenshaw, Vice Chairman Bayer, Senators Patrick, Den Hartog, Johnson, Zito, Ricks, Nelson, and Rabe

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 Burtenshaw** called the meeting of the Senate Agricultural Affairs Committee (Committee) to order at 8:01 a.m.

MINUTES APPROVAL: **Senator Ricks** moved to approve the Minutes of March 2, 2021. **Vice Chairman Bayer** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Importance of Columbia-Snake River System (River System) to Idaho Agriculture.** Paul Arrington, Idaho Water Users Association, introduced all the speakers for the presentation regarding the Columbia-Snake River System, and stated that all the presenters are part of the Coalition for Idaho Water (Coalition). He indicated agricultural industry groups concerned about the impacts of river management on its operations formed the Coalition. (See Attachment 1.) Additionally, he said the Coalition provides agriculture stakeholders throughout Idaho a united voice on issues relating to Idaho waters.

Mr. Arrington presented a table from Bureau of Reclamation regarding the economic contributions of four of the major storage facilities in southern Idaho. He noted that the numbers reflected in the table are for 2019 but the 2020 figures are similar. He pointed out that the table gave some insights on the significant impacts of water development projects to the State's economy. (See Attachment 2.)

In addition, **Mr. Arrington** discussed the Snake River Water Rights Agreement, also known as the Nez Perce Agreement (Agreement). He explained that in 1990s, the Nez Perce tribe raised concerns about the management of Idaho waters for agricultural users, and the Agreement resolved all those issues. He detailed the three components that were included in the Agreement: the Nez Perce tribal component, the Salmon/ Clearwater habitat management and restoration component, and the Snake River flow component. He mentioned that all concerned parties engaged in robust discussions before coming to an agreement. (See Attachment 3.)

Will Hart, Idaho Consumer-Owned Utilities Association (ICUA), spoke about ICUA and the importance of hydropower generation in Idaho. He pointed out that ICUA members deliver electricity to consumers "at cost" and none of its members operate on a "for profit" basis. He presented a territory map that shows the locations of ICUA's electric utility members across the State. (See Attachment 4.) He emphasized that the four lower Snake River dams produce over 1,000 average megawatts of reliable, carbon-free hydropower. Furthermore, he said that the four dams help meet peak demands for energy in the Pacific Northwest and help avoid or lessen power outages.

Mr. Hart mentioned that 20 percent of an ICUA consumer's average utility bill goes toward programs that support the protection of Idaho's fish and wildlife. He indicated Idaho consistently has the lowest power usage rates in the nation because of the renewable hydropower produced by dams.

Stacey Satterlee, Idaho Grain Producers Association, talked about the connection of Idaho's wheat industry to the River System. (See Attachment 5.)

Ms. Satterlee emphasized that Idaho wheat producers are reliant on the River System to transport the crops to the international market. She mentioned that the River System is an important business partner for wheat growers. She said four out of the five top consumers of Idaho wheat are countries located in the Pacific Rim, thus the River System provides a cost-effective way to ferry grains from Idaho across the world. She acknowledged that Idaho is a landlocked state but noted the presence of the River System allows Idaho to access foreign markets.

Dave Doeringsfeld, General Manager, Port of Lewiston (Port), provided a brief description of the Port and commented that barging via the River System is an economical way for moving bulk grains to the overseas market. He added that the total commodity shipped down the River System remained fairly constant over the past decade, with an average of 3.8 million tons per year. He pointed out that if there should be breaching of dams in the Columbia-Snake River area, transportation of grains would be greatly affected. He outlined the impracticality of converting the shipping of bulk commodities from the River System to railroad transport.

Mr. Doeringsfeld showed photographs of Lewis-Clark Valley and explained the difference of the Port in 1992 to the present. (See Attachment 6.)

DISCUSSION:

Chairman Burtenshaw asked Mr. Doeringsfeld to elaborate on the transport of bulk grains through barging versus trucks and rails in terms of numbers. **Mr. Doeringsfeld** explained that one barge full of grains is equal to 136 trucks or 36 railroad cars of grains. Furthermore, one tugboat can tow four barges at the one time. He noted the River System provides efficient transport of bulk commodities to its destination.

H 126

Relating to Industrial Hemp. Braden Jensen, Idaho Farm Bureau Federation (IFBF), stated that **H 126** is about the legalization of the production, processing, transportation, and research of industrial hemp in Idaho. He reviewed two important events that provided the framework for the legal production of industrial hemp in the country: the passage of the Hemp Farming Act of 2018 and Code of Federal Regulations Title 7, Part 990 of the 2018 Farm Bill. He mentioned that Idaho is the only state in the nation that has not legalized industrial hemp production. On the other hand, the U.S. Department of Agriculture (USDA) approved the Nez Perce Tribe's hemp regulatory code in February, providing a regulatory plan for the legal production of industrial hemp on the Nez Perce Reservation.

Mr. Jensen indicated **H 126** represents the revised version of similar bills presented to the Idaho Legislature in past years. He said this bill is less restrictive than the status quo but would maintain law enforcement's involvement, which is sufficient to uphold and enforce Idaho's drug policy. He pointed out that IFBF worked with the agricultural industry's growers, trucking industry representatives, law enforcement, and state agencies to address the concerns and find common ground in drafting the bill.

Mr. Jensen discussed the goals of the proposed legislation, which are to legalize the production of industrial hemp in the State; to maintain strong and enforceable drug policy; and to ensure that all stakeholders are comfortable with the proposed bill. He emphasized that **H 126** is a farming, processing, trucking, and research bill – not a cannabidiol (CBD), tetrahydrocannabinol (THC), or medical marijuana bill.

DISCUSSION:

Chairman Burtenshaw noted the presence of Chanel Tewalt, Deputy Director/ Communications, Idaho State Department of Agriculture (ISDA); and Scott Bandy, Ada County Prosecutor's Office (ACPO).

Vice Chairman Bayer asked Mr. Jensen to clarify the definition of industrial hemp in **H 126** in relation to the industrial hemp definition in Schedule I of the Idaho Code Chapter 27, Title 37. **Mr. Jensen** replied that Idaho Code § 37-2701 provides definitions of the items listed under Schedule I and II. He specified that the definition of industrial hemp in the code legalizes industrial hemp products with a presence of THC up to 0.3 percent for licensed growers, processors, haulers, and researchers, but not to everyone else.

Senator Johnson asked Mr. Jensen to clarify the importance of having two different definitions of industrial hemp, as indicated in Idaho Code §§ 37-2701 and 67-2921 (new section), and any potential legal actions that may arise as a result of having two definitions. **Mr. Jensen** explained that the first part of the definition of industrial hemp in Idaho Code § 37-2701 was taken from 2018 Farm Bill which only addresses its dry weight. He further said that the latter part of the definition stipulates the description and stipulations of industrial hemp in its liquid form. He specified this would allow the law enforcement to make a comparison between a dry form and liquid form of industrial hemp.

Holly Koole-Rebholtz, ACPO, replied the prosecutor's office commonly refers to Idaho Code Title 37 or Control Substance Act for most of its drug-related lawsuits. She also mentioned that the reason volume was added in the definition of industrial hemp was upon request of the Idaho State Police Forensic Services. She added that this would allow state laboratories to test industrial hemp both in its dry and liquid forms.

TESTIMONY:

Matthew Mead, founder, Hempitecture, testified in support of **H 126**. He said the growing of industrial hemp has risen significantly nationwide since the passage of the 2018 Farm Bill, which allows hemp cultivation. He stated that his business specializes in building products that are derived from agricultural industrial hemp. He added that he imports hempwool, a fiber derived from industrial hemp, from Canada. He said that the bill represents an economic opportunity to some businesses as well as an opportunity for Idaho farmers to participate in this growing industry.

Connie Stopher, Executive Director, Southern Idaho Economic Development, spoke in support of **H 126**. She indicated that the hemp industry is estimated to grow 34 percent by 2025. She emphasized that being the only state in the nation that does not allow cultivation of industrial hemp puts Idaho's economy at a competitive disadvantage among other states. She emphasized that the bill would allow farmers to diversify their business and would result in a significant impact to Idaho's economy.

Tim Cornie, farmer, spoke in favor of **H 126**, and stated the benefits of industrial hemp grains on health, the dairy industry, and crop rotation for farmers. He emphasized that industrial hemp could not be grown near marijuana farm because both crops would cross-pollinate and would be nuisance to each other.

Richard Durrant, IFBF, and **Ms. Satterlee** spoke in support of **H 126**. They mentioned the bill would allow growers to capitalize on the booming industrial hemp industry in the nation. Furthermore, they added that farmers understand the risks and rewards of industrial hemp production, and that it needs to be regulated.

Benjamin Kelly, Food Producers of Idaho, spoke in support of **H 126**. He stated the bill provides Idaho farmers an opportunity to cultivate additional crops and to better diversify their operations. He described industrial hemp as a low environmental impact product with high sustainability, which are vital requirements for growers who need alternatives for their cropping systems.

Ms. Tewalt gave additional information in response to Senator Johnson's earlier question. She clarified that it is not unusual for ISDA to have multiple definitions of a term in its agriculture regulatory code. She acknowledged that there is a slight difference in the definition of industrial hemp in Idaho Code §§ 22-1703 and 37-2701. She said that the latter is a criminal code definition while the former is a regulatory civil code that ISDA usually uses.

MOTION: **Senator Patrick** moved to send **H 126** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion.

DISCUSSION: **Vice Chairman Bayer** expressed concerns over some language in **H126** and its effect on Schedule I of the Idaho Code. She noted that she would reserve her decision on how to vote on the Senate floor.

VOICE VOTE: The motion to send **H 126** to the floor with a **do pass** recommendation carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 9:20 a.m.

Senator Burtenshaw
Chair

Rellie Wisdom
Secretary