

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 170

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO FISH, WILDLIFE AND WATER RESOURCES; AMENDING SECTION 67-818,
2 IDAHO CODE, TO REVISE PROVISIONS REGARDING IDAHO'S PRIMACY OVER THE
3 MANAGEMENT OF ITS FISH, WILDLIFE AND WATER RESOURCES, TO PROVIDE THAT
4 ANY INTRODUCTION OR REINTRODUCTION WITHOUT STATE CONSULTATION AND AP-
5 PROVAL IS PROHIBITED, AND TO MAKE A TECHNICAL CORRECTION.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 67-818, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 67-818. COORDINATION OF POLICY AND PROGRAMS RELATED TO THREATENED
11 SPECIES AND ENDANGERED SPECIES IN IDAHO. (1) There is hereby created in the
12 office of the governor, the "Office of Species Conservation." The adminis-
13 trator of the office of species conservation shall be the official in the
14 state designated to oversee implementation of federal recovery plans, as
15 provided in 16 U.S.C. section 1533(f), and to fulfill the duties provided
16 by this section. The administrator shall be appointed by, and serve at the
17 pleasure of, the governor and shall be subject to confirmation by the state
18 senate.

19 (2) The duties of the office of species conservation shall include:

20 (a) Coordination of all state departments and divisions with duties and
21 responsibilities affecting endangered species, threatened species,
22 candidate species, species petitioned to be listed, and rare and de-
23 clining species as defined in section 36-2401, Idaho Code;

24 (b) Coordinating state implementation and response to federal recovery
25 plans, biological opinions, guidance and projects among all state and
26 local governments in the state of Idaho;

27 (c) Participation in regional efforts to cooperatively address endan-
28 gered species, threatened species, candidate and petitioned species,
29 and rare and declining species;

30 (d) Providing input and comment to federal and state agencies, and
31 tribes on issues relating to endangered species, threatened species,
32 candidate and petitioned species, and rare and declining species;

33 (e) Cooperating and consulting with the department of fish and game,
34 the department of lands, the department of water resources, the de-
35 partment of agriculture, and the department of parks and recreation
36 regarding agreements pursuant to 16 U.S.C. section 1533, 16 U.S.C. sec-
37 tion 1535 and 16 U.S.C. section 1539;

38 (f) Negotiating agreements with federal agencies concerning endan-
39 gered species, threatened species, candidate species, petitioned
40 species, and rare and declining species including, but not limited to,
41 agreements pursuant to 16 U.S.C. section 1533(d) and 16 U.S.C. section

1 1539(a), other than those agreements negotiated pursuant to 16 U.S.C.
2 section 1535;

3 (g) Providing the people of the state of Idaho with an ombudsman who can
4 listen to citizens being harmed or hindered by the regulations of the
5 ESA and direct them to the appropriate state or federal agency and/or
6 speak on their behalf, as deemed appropriate by the ombudsman, to ad-
7 dress issues or concerns related to the ESA;

8 (h) Serve as a repository for agreements and plans among governmental
9 entities in the state of Idaho for the conservation of rare and declin-
10 ing species, petitioned, candidate, threatened and endangered species.

11 (3) State policy and management plans developed pursuant to this sec-
12 tion shall be developed in accordance with the following subsections:

13 (a) State policy on rare and declining, petitioned, candidate, threat-
14 ened, and endangered species and state management plans shall be
15 developed in consultation with the appropriate state agencies. The ap-
16 propriate state agency for wildlife and plant management issues is the
17 department of fish and game. The appropriate state agency for timber
18 harvest activities, oil and gas exploration activities and for mining
19 activities is the department of lands. The appropriate state agencies
20 for agricultural activities are the department of agriculture and the
21 Idaho state soil and water conservation commission. The appropriate
22 state agency for public road construction is the transportation depart-
23 ment. The appropriate state agency for water rights is the department
24 of water resources. The appropriate state agency for water quality is
25 the department of environmental quality. The appropriate state agency
26 for outfitting and guiding activities is the Idaho outfitters and
27 guides licensing board;

28 (b) State management plans shall be the policy of the state of Idaho,
29 but are subject to legislative approval, amendment or rejection by con-
30 current resolution. State management plans shall be subject to public
31 notice and comment but shall not be subject to judicial review.

32 (4) The governor's office of species conservation shall prepare a re-
33 port to the legislature recommending a plan to develop state conservation
34 assessments and strategies for rare and declining species in the state of
35 Idaho and submit that report and recommendation to the legislature. The re-
36 port and recommendation are subject to legislative approval, amendment or
37 rejection by concurrent resolution.

38 (5) The state asserts primacy over the management of its fish, ~~and~~
39 wildlife and water resources. Accordingly, any introduction or reintro-
40 duction of any federally listed aquatic or terrestrial species onto lands
41 within the state or into state waters, including those actions that would
42 impair or impede the state's primacy over its land and water, without state
43 consultation and approval is against the policy of the state of Idaho and is
44 hereby prohibited.

45 (6) No provision of this section shall be interpreted as to supersede,
46 abrogate, injure or create rights to divert or store water and apply water to
47 beneficial uses established under section 3, article XV, of the constitution
48 of the state of Idaho, and title 42, Idaho Code.