

MINUTES
SENATE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, February 22, 2024

TIME: 8:00 A.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Hartgen, Senators Foreman, Hart, Schroeder, Carlson, Zuiderveld, Semmelroth, and Taylor

ABSENT/ EXCUSED: Vice Chairman Nichols

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

WELCOME: **Chairman Hartgen** welcomed Allan Wahlberg, Associate Dean, Brigham Young University (BYU) and the BYU-Idaho Agriculture Policy Class of 2024 to the Committee meeting.

H 472 **Agriculture - Amends existing law to revise provisions regarding the inspection of private premises.** **Braden Jensen**, Director, Government Affairs, Idaho Farm Bureau, stated **H 472** would amend the Idaho Plant Pest Act. It would give the Idaho State Department of Agriculture (ISDA) the ability to enter private property to carry out inspections that dealt with plant pests and plant disease related issues. It would be consistent with the statutory requirements of the ISDA for inspecting livestock. Currently the ISDA had the authority to enter both public and private lands to carry out those inspections. This bill would insert the language that the director may enter and inspect with the permission of the land owner or agent, with probable cause, or with a warrant, any private premises, lands, or means of conveyance, or article of any person within this state, for the purpose of inspecting, surveying, treating, controlling, or destroying any plant or plant pest.

DISCUSSION: **Senator Carlson** inquired what promoted the change.

Mr. Jensen indicated before inspecting private lands that permission was granted before having to obtain a warrant.

Senator Carlson added she had no problem with eradication of weeds. The warrant was a cause of concern and she asked if Mr. Jensen could explain it in more detail

Mr. Jensen explained the ISDA could enter private property without permission, probable cause, or without a warrant. This new language would require permission from the landowner prior to entering private property. At this time the ISDA was able to go on to public or private property to carry out inspections without permission.

Senator Zuiderveld asked Mr. Jensen to define probable cause to enter private property regardless of permission.

Mr. Jensen referred the question to Lloyd Knight, Deputy Director, ISDA.

Lloyd Knight, Deputy Director, ISDA, responded the Idaho Plant Pest Act of 2002

gave the ISDA broad authority to inspect public and private lands. The last time a warrant was issued was back in 2012 to eradicate the Potato Cyst Nematode and Japanese Beetle. The preferred alternative was to get permission from the landowner before entering onto their property. **Mr. Knight** stated obtaining a warrant was a last option to obtain access to private lands to eradicate pests.

Senator Zuiderveld inquired what an article of any person was.

Mr. Knight replied it was something that was transported with a commodity. Such as a truckload of potatoes or nursery stock that entered Idaho with a disease or plant pests. Most times the ISDA issued a stop sale or held items in quarantine. The ISDA was trying to stop the spread of pests and diseases throughout the State.

Senator Foreman stated probable cause meant concrete evidence which distinguished it from reasonable suspicion. If a land owner would not let you on their property to investigate or control noxious weeds because of reasonable suspicion how does one obtain probable cause.

Mr. Knight answered the ISDA did not need probable cause. The authority given to the ISDA at this time was very broad. Mr. Jensen and the Idaho Farm Bureau were trying to attach probable cause to **H 472**. The statute as originally written gave very broad authority to the ISDA. The ISDA had civil authority not criminal. The sponsors of the legislation were trying to correct the broad authority of the ISDA by adding a hurdle to obtain a warrant by obtaining permission to enter private land first.

Senator Foreman stated that the ISDA would be giving up flexibility with uncooperative landowners. This was the issue with probable cause versus reasonable suspicion. He stated he did not want to see Idaho officials crippled by being forced to produce probable cause.

Mr. Knight stated the ISDA was originally formed in 1919 to protect animal health. Idaho's strongest industry was agriculture and a way of life for communities across the State. The ISDA now encompassed plant health, diseases, pests, and predators. Mr. Knight stated the issue was trying to inform land owners why the ISDA were on their property. The State took controlling noxious weeds and Quagga Mussels seriously. The ISDA was trying to strike a balance between private property rights and the right for the ISDA to do their work.

Senator Carlson asked if invasive species were found on federal lands, how were they taken care of.

Mr. Knight replied the ISDA authority did not apply to federal lands unless there was a cooperative plan in place to eradicate weeds on private, state, and federal lands. Federal lands had their own treatment plans.

Chairman Hartgen inquired how often were private landowners opposed to the ISDA entering their properties to eradicate noxious weeds or pests.

Mr. Knight replied the ISDA worked diligently to get permission from landowners before treating infestations. It was a conversation to get private owners comfortable to allow the ISDA to treat their property before having to issue a warrant. He stated the Idaho Plant Pest Act was initiated 12 years ago when the ISDA had to issue warrants to eradicate pests. The ISDA did not want to issue warrants, but would rather have permission from the private land owners first.

Mr. Jensen reaffirmed the precedent was set with Idaho Code § 25-3519. The

authority to enter premises and examine animals when probable cause existed. If permission was not granted, said representatives shall be empowered to call on sheriffs, constables, and peace officers to assist them in the discharge of their duties. Under **H 472** inspections of plants and plant pests would be on a similar basis with animals inspections. Carrying out those inspections first with permission from the landowners.

MOTION: **Senator Schroeder** moved to send **H 472** to the Senate floor with a **do pass** recommendation. **Senator Taylor** seconded the motion. The motion passed by **voice vote**. **Senator Foreman** requested to be recorded as voting nay.

PRESENTATION: **FY 2023 Performance Report, Delwyne Trefz**, Administrator, Idaho Soil and Water Conservation Commission (ISWCC) presented the Fiscal Year 2023 Annual Performance Report. He introduced Devin Fielding, President of the Idaho Association of Soil Conservation Districts who would present and update on the conservation districts.

Mr. Trefz stated the ISWCC was governed by a board of seven commissioners, who were appointed by the governor in staggered five year terms. The commissioners oversaw the administrator who managed the day to day operations, in addition to distributing financial and technical assistance to conservation districts. He mentioned the ISWCC provided support to Idaho's 50 locally led conservation districts. They provided outreach and communications to educate and inform partners, decision makers, and the public on the value of conservation in sustaining and improving soil, water, air, plant, and animal resources as well as enhancing the economic productivity of the State. He stated performance measures were up from 2022, hitting or exceeding their goals.

Mr. Trefz stated the ISWCC had four core functions:

1.
District support and services, which involved providing technical and financial assistance to Idaho's 50 conservation districts.
2.
Comprehensive conservation services, providing and promoting non-regulatory, incentive, and science-based programs to support voluntary conservation activities and enhance the environmental quality, and economic productivity of the State.
3.
Administration of the agency in a fiscally responsible manner and for outreach activities.
4.
To engage the public and private partners at the local, state, and national level in activities that promoted voluntary conservation and environmentally sound stewardship of Idaho's natural resources.

Mr. Trefz spoke about the Water Quality Program for Agriculture (WQPA). He said H 352 in 2023 provided an additional \$5 million for WQPA as a supplemental appropriation to the FY 2023 budget. Eighty project proposals were received, and 51 projects were approved for funding. He stated \$5 million was reappropriated through FY 2024 (Attachments 1 and 2).

Devin Fielding, President, Idaho Association of Soil Conservation Districts, stated it was his second year as president. Idaho's soil and water conservation districts directors were elected officials who strived for voluntary, locally-led, non-regulatory conservation. There were currently 50 districts that covered Idaho. He stated the mission was to serve as intermediaries and advocates for conservation on private

grounds in Idaho. They also sought partnerships between landowners, state, and federal agencies. This would cover irrigation projects, cover crops, stream bank remediation, and reforestation.

In closing, **Mr. Fielding** added the conservation districts did this for food production, forestry, and mining which accounted for \$4.5 billion in Idaho's economy. Conservation ensured that these vital natural resources would be available for generations to come (Attachment 3).

INTRODUCTION: Leadership Idaho Agriculture - Class 44 - 2023-2024, Rick Waitley, President, Association Management Group gave a brief overview of the Leadership Idaho Agriculture (LIA) program. The program was started in 1985 at the Idaho State Department of Agriculture (ISDA). There were 38 states in the union that had a leadership program. The program remained at the ISDA until 1992 when it became a private foundation. He reported there had been 1,100 students who had graduated since 1986. **Mr. Waitley** then introduced the graduating class of 2024 (Attachments 4 and 5).

ADJOURNED: There being no further business at this time, **Chairman Hartgen** adjourned the meeting at 9:05 a.m.

Senator Hartgen
Chair

Melissa Price
Secretary