

Capitol Reflections



2015 Legislative Session

In this issue

Protecting Private Property, pg. 1

Re-Appointment of Director Spackman, pg. 1

Island Park Caldera, pg. 1

Federal Lands Committee Report, pg. 2

BYUI Students Visit Legislature, pg. 3

Regulatory Freedom Amendment, pg. 3

Big Wreck Ahead - Transportation, pg. 3&4

Island Park Caldera National Monument Opposition

Representative Paul Romrell (R-St. Anthony) has introduced HJM2 which declares Idaho's opposition to any designation of a National Monument in the Island Park area. The memorial points out that there was an advisory vote this past fall and the voters in Fremont County overwhelmingly opposed the monument designation with 93 percent opposed and only 7 percent in favor. The memorial also discusses the negative impacts a monument designation would have on the agricultural production and recreation which take place in that area as well as impacts on the private property rights of the many cabin owners and other landowners in the Island Park area. Idaho Farm Bureau opposes any National Monument designations in Idaho and supports HJM2.

Protecting Private Property Rights

This week Senator Jim Guthrie (R-McCammon) introduced a bill in the Senate Local Government and Taxation Committee which would strengthen and protect private property rights. S1044 would prohibit using the power of eminent domain to take private property for the creation of bike paths, jogging trails or other recreational purposes, unless they are adjacent to an existing road or highway, which is already a public thoroughfare.

This bill is necessary since there is an increasing trend of cities and other local jurisdictions who think it would be nice to have a path through somebody's private property. Rather than purchasing property or paying for an easement from a willing seller, they refuse to take "no" for an answer, insisting that there is only one place that trail can go, using the sledgehammer of eminent domain to accomplish their dreams.

Property rights are the foundation of both our economy and our society and must be vigorously protected and maintained. Eminent domain forces a private property owner to give up his legitimate rights against his will and should only be used in extremely limited and extraordinary circumstances as outlined in the Idaho Constitution. Idaho Farm Bureau supports S1044 and appreciates Senator Guthrie sponsoring this bill.

Re-Appointment of Director Gary Spackman

Statehouse 2/4/2015 - The Senate Resources and Environment Committee held a confirmation hearing regarding the re-appointment of Gary Spackman, Director of the Idaho Department of Water Resources. Director Spackman has served as interim director and director of this state agency since IDWR Director David Tuthill retired on June 30, 2009. Director Spackman had worked for the Department as the manager of the Western Regional Office and administrator of the Water-Management Division. He was appointed as Director on July 11, 2012 by Governor C.L. "Butch" Otter.

Director Spackman is a registered civil engineer and practiced law in southeastern Idaho prior to his employment with the State. He has served the State of Idaho now for nearly 32 years.

A committee re-confirmation vote of the committee will take place likely on Friday. The committee's recommendation will be considered by the full Senate in the near future.

So great is the regard of the law for private property, that it will not authorize the least violation of it; no, not even for the general good of the whole community. - William Blackstone



Idaho Farm Bureau's Governmental Affairs Report

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Federal Lands Interim Committee Report

HCR 21 and HCR 22

A Review of the 2014 Interim Committee Report

Committee Background and Mission - On January 30, 2015 the Federal Lands Interim Committee provided its final report for the work that had been completed in 2013-2014. This committee was co-chaired by Senator Chuck Winder and then Representative Lawrence Denney. Meetings were held throughout Idaho and public testimony was received regarding the State's investigation and desire to acquire and manage more land currently being held by the federal government. Approximately 62 percent of lands within our state's boundaries are owned by the federal government.

History of Federal Lands – Initially, the federal government did not own any land. Lands were ceded to the federal government from several of the original states for the sole purpose of the formation of other states, the proceeds of which would be used to pay down Revolutionary War debt. The basis for the federal government's future ownership of any lands was the Property Clause of the U.S. Constitution which gave Congress authority over territories and other property of the United States. The Property Clause states:

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

When the federal government purchased or acquired more lands through the Louisiana Purchase and other similar transactions, it was to provide territory for new states to be formed. The federal government sold land to settlers, in some instances giving it away for free to the states when it could not be sold in a timely manner.

Idaho Territory – In 1863 President Abraham Lincoln signed a bill creating the Idaho Territory. Then, in 1889 Congress admitted Idaho into the Union. Idaho's Admission Act set forth the requirements of the territory in order to be admitted "on an equal footing with the original states in all respects whatever". However, the Admission Act adopted by Congress also contained certain disclaimers to unappropriated public lands. Section 12 of the Idaho Admissions Act states in part:

"The state of Idaho shall not be entitled to any further or other grants of lands for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated and disposed of exclusively for the purpose herein mentioned".

Those lands expressly provided included: sections of endowment lands given to the State for the purpose of providing funds for the schools, universities and other institutions of the State. Therefore, there are now competing clauses within the Admission Act itself, which would not have been the case, had the federal government kept its commitment to sell the lands to the public.

Idaho's Constitution – Article XXI, Section 19 contains additional disclaimer language that states the following:

"And the people of the state of Idaho do agree and declare that we forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indians or Indian tribes; and until the title thereto shall have been extinguished by the United States, the same shall be subject to the disposition of the United States..."

The federal government was supposed to sell or "dispose" of the public lands within Idaho. That was the agreement at the time of statehood as clearly indicated in the language from the Idaho Constitution cited above. This in and of itself puts Idaho, and most other Western states, on an unequal footing with other states who do not have huge tracts of federally managed lands within their borders.

Conclusion – The Idaho Legislature's frustration with federal management of the 62 percent of Idaho is thoroughly illustrated by HCR 21 and HCR 22. This frustration has manifested itself in various ways since statehood and there have been many efforts over the last 125 years to reduce federal ownership of Idaho.

The 10 member legislative committee undertook a review of both legal issues regarding ownership and the economics challenges of managing this vast amount of land. Primary themes from the public testimony indicated that these lands are not currently being managed appropriately by the federal government, but the land should continue to provide public access. Obviously there are great economic opportunities from ownership, but the cost of management and protection raises concerns.

Other western states are aggressively engaged in the effort and also desire to decrease federal land holding within their borders. There is no easy path to resolve this grievance with the federal government. The interim committee will be seeking authority to continue to remain active to monitor and support other western states efforts to obtain federal lands.

Minority Report - A minority report was presented by committee members Senator Michelle Stennett and Representative Mat Erpelding. This report takes exception to Idaho's efforts to obtain ownership of federally owned lands.

Full Report – The full report can be found on the Idaho Legislature's website. Go to www.legislature.idaho.gov to read the full committee report.

BYU-Idaho Ag Econ Students visit Legislature

This week, BYU-Idaho ag econ professor, Dr. Stephen McGary, brought 25 of his AGBUS 410 students to Boise to get a first-hand look at the legislative and public policy process.

While in Boise the students met with Senate Pro Tem, Brent Hill (R-Rexburg), attended the Senate Agricultural Affairs Committee meeting and observed the Senate and House floor sessions. The class also met with the State Economist, Idaho Dairymen's Association and Director Celia Gould, Idaho Department of Agriculture. The group attended the House and Senate Resource Committees. They also met with the Idaho Farm Bureau Federation Governmental Affairs staff who discussed legislative issues and answered questions about the public policy process.

BYUI students participating in this year's tour were Nazareth Aintablian, Zachary Bollschweiler, Hannah Christensen, Jessalyn Croft, Krysten Davis, Araujo Dos Anjos, Bruno Daniel, Dallin Greer, Annie Jo Hankins, Rebecca Henderson, Dalan Lerwill, Aaron Liljenquist, Matthew Martin, Brandon Mathews, Chance Merrill, Tyson Nicoll, Joshua Noble, Kyle Palmer, Bryton Ricks, Catelyn Sanders, Kate Schlueter, Taylor Smith, Cody Stinnett, Kristopher Toll and Milo Wrigley.

Regulatory Freedom Amendment

Representative Tom Dayley (R-Boise) has introduced HJM1 which urges Congress to propose the Regulation Freedom Amendment as an amendment to the U.S. Constitution. The amendment would provide a mechanism for greater congressional oversight of executive agency rulemaking.

The amendment as proposed states: "Whenever one quarter of the members of the United States House of Representatives or the United States Senate transmits to the President their written declaration of opposition to a proposed federal regulation, it shall require a majority vote of the House of Representatives and the Senate to adopt that regulation."

If proposed by Congress and ratified by the states, this amendment would allow Congress to rein in over-reaching federal agencies and ensure that the rules they propose are in conformance with the laws Congress has passed. Idaho Farm Bureau supports HJM1.

Big Wreck Ahead: Unknown Time and Place

During the last ten days discussion of highway and infrastructure maintenance revenue has increased. Last week ITD Director, Brian Ness, addressed the Joint Senate and House Transportation Committees and told them \$262 million is still a valid number for infrastructure maintenance. Director Ness also said that \$262 million annually could remove all restricted bridges in ten years.

This week the Idaho Association of Highway Districts (IAHD) and Association of Idaho Cities (Cities) spoke to the Senate Transportation Committee and discussed their current and future needs. Highway districts maintain 12,000 lane miles, counties-14,000 land miles and cities-5,000 lane miles. The Cities also said they were responsible for 267 bridges, 80 of which are 50 years old or older.

The House Republican Caucus also met and concluded that highway maintenance revenue was an issue and that the solution(s) could be a variety and/or combination of things; increased fuel taxes, increased registrations and license fees or any other of a number of revenue raising ideas. House Majority Caucus Chairman, Rep. John Vander Woude (R-Nampa) said that revenue might be raised through a combination of legislative actions and that not everyone was going to agree on all revenue raising methods. All ideas were on the table. The Majority Caucus Chairman said that on some measures House members "... may just have to hold their nose and vote."

For the last two legislative sessions action by the legislative, not executive branch, has been the thrust of the proposed infrastructure revenue increases. In his 2015 State of the State Address, Governor Otter said that he would not support any maintenance revenue legislation that took money from the general fund. At this point, no bills have surfaced, there is a lot of rumored activity but there has been little or no movement on the issue to this point in time. The common thought is that no one wants to be on the tip of the spear and be the first to be known for raising taxes and fees.

As a summary of past revenue raising proposals and a preview of what might be ahead, an excerpt from a 2014 Idaho Farm Bureau Federation white paper which summarizes 2013 and 2014 legislative activity follows. Cited amounts are accurate as of July 2014 and many are still being used in the current discussion.

continued page 4

Big Wreck Ahead:

continued

IFBF White Paper: Raising Revenue for Highway and Infrastructure Maintenance

Issue: Should the State of Idaho raise additional revenue to maintain highways, bridges and other transportation infrastructure?

Background: The Governor's Transportation Task Force in 2010-2011 determined that the State of Idaho has a backlog of highway and infrastructure maintenance needs of approximately \$240-260 million per year just to maintain our current highway system.

The legislation discussed by this white paper originated from the Legislature in 2013, not the executive branch or the Idaho Transportation Department (ITD). **The bills were printed at the end of the 2013 legislative session to provide a starting point in the potential funding discussion. It is intended that any revenues raised will be used for highway and infrastructure maintenance, not new construction. THESE BILLS HAVE ACCOMPLISHED THAT PURPOSE AND ARE USED AS EXAMPLES OF THE TYPES OF REVENUE RAISING PROPOSALS. These bills are not viable or relevant and used for illustration only.**

Pros: There is a general recognition that Idaho's highways and transportation infrastructure need maintenance. Agricultural commodities depend on an adequate and well-maintained state highway system to get to market. To address concerns over the use of current highway funding, ITD has aggressively implemented an internal administrative plan over the past three years that streamlines, consolidates and creates greater efficiencies within its operations. These actions have resulted in significant cost savings. ITD has demonstrated to the Legislature a greatly improved ability to manage its budget and projects and get more dollars on the ground.

Cons: Any of the 2013 bills result in tax increases, license and fee increases or all three. H337 increases the sales tax by 1 cent (\$.01) for 5 years and raises \$162 million annually. H338 increases fuel taxes over 5 years, increases fuel transfer fees, doubles car and pickup registration, increases truck registration for commercial and farm trucks, imposes additional fees on electric and hybrid cars, hikes permit fees, imposes a new tax on rental cars equal to the sales tax and establishes a 3-year enforcement pilot project for dyed fuel. According to the fiscal note, H338 would raise an additional \$236 million annually once it is fully implemented. H339, H340 and H341 are various combinations of the different components of H338.

2014 Developments: No transportation maintenance revenue-specific bills were heard during the 2014 Legislative Session. Three bills- H481, H494 and H505 were printed. H481 raised the fuel tax \$.02 per year from 2015 through 2017, for a total increase of \$.06 after July 1, 2017. Additional annual revenues after July 1, 2017 would be approximately \$52.8 million per year. H494 redirected sales tax revenues from the General Fund (GF) to the Highway Distribution Account (HDA) after trigger amounts of general fund revenue and public school appropriations were reached. H505 redistributed existing sales tax revenue to the HDA approximately equal to the amount of sales tax paid on tires and vehicle accessories.

A fourth bill, H547, redirected cigarette tax revenue in a number of ways; providing \$4.7 million for GARVEE bond debt service, the next \$5 million was earmarked for aquifer recharge and ***“any remaining tax monies will go to the State Highway Account to pay for maintenance of the state highway system”*** per the bill's statement of purpose. These are ongoing allocations through 2030.

Other considerations for the 2015 Legislature include a number of redirections of certain existing sales tax revenues for highway maintenance.

At the request of House Transportation Chairman, Rep. Joe Palmer (R-Meridian), the Idaho Transportation Department (ITD) has identified a number of bridge replacements and maintenance projects in their current 5-year plan which includes the years 2014-2018. Construction costs for the 69 projects total approximately \$195 million. This amount does not include non-construction costs such as environmental studies, right-of-way acquisition, engineering and