

IN THE SENATE

SENATE BILL NO. 1061

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO THREATENED AND ENDANGERED SPECIES; AMENDING SECTION 67-818, IDAHO CODE, TO PROVIDE THAT THE STATE ASSERTS PRIMACY OVER THE MANAGEMENT OF ITS FISH AND WILDLIFE AND THAT IT IS AGAINST THE POLICY OF THE STATE OF IDAHO TO INTRODUCE OR REINTRODUCE ANY FEDERALLY LISTED SPECIES ONTO LANDS WITHIN THE STATE OR INTO STATE WATERS WITHOUT STATE CONSULTATION AND APPROVAL.

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

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

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

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

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

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

(c) Participation in regional efforts to cooperatively address endangered species, threatened species, candidate and petitioned species, and rare and declining species;

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

(e) Cooperating and consulting with the department of fish and game, the department of lands, the department of water resources, the department of agriculture, and the department of parks and recreation regarding agreements pursuant to 16 U.S.C. section 1533, 16 U.S.C. section 1535 and 16 U.S.C. section 1539;

(f) Negotiating agreements with federal agencies concerning endangered species, threatened species, candidate species, petitioned species, and rare and declining species including, but not limited to, agreements pursuant to 16 U.S.C. section 1533(d) and 16 U.S.C. section

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

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

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

(3) State policy and management plans developed pursuant to this section shall be developed in accordance with the following subsections:

(a) State policy on rare and declining, petitioned, candidate, threatened, and endangered species and state management plans shall be developed in consultation with the appropriate state agencies. The appropriate state agency for wildlife and plant management issues is the department of fish and game. The appropriate state agency for timber harvest activities, oil and gas exploration activities and for mining activities is the department of lands. The appropriate state agencies for agricultural activities are the department of agriculture and the Idaho state soil and water conservation commission. The appropriate state agency for public road construction is the transportation department. The appropriate state agency for water rights is the department of water resources. The appropriate state agency for water quality is the department of environmental quality. The appropriate state agency for outfitting and guiding activities is the Idaho outfitters and guides licensing board;

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

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

(5) The state asserts primacy over the management of its fish and wildlife. Accordingly, any introduction or reintroduction of any federally listed species onto lands within the state or into state waters, including those actions that would impair or impede the state's primacy over its land and water, without state consultation and approval is against the policy of the state of Idaho.

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