

IN THE SENATE

SENATE JOINT MEMORIAL NO. 102

BY STATE AFFAIRS COMMITTEE

A JOINT MEMORIAL

1  
2 TO THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CON-  
3 GRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE  
4 STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

5 We, your Memorialists, the Senate and the House of Representatives of  
6 the State of Idaho assembled in the First Regular Session of the Sixty-fourth  
7 Idaho Legislature, do hereby respectfully represent that:

8 WHEREAS, the State of Idaho is committed to the conservation of greater  
9 sage-grouse (*Centrocercus urophasianus*) and its present habitat located  
10 within the state; and

11 WHEREAS, the state has produced a statewide sage-grouse conservation  
12 plan in support of this commitment; and

13 WHEREAS, Idaho's Department of Fish and Game and Office of Species Con-  
14 servation possess significant expertise in the management of greater sage-  
15 grouse and its habitat and whose experts have attempted to work in full coop-  
16 eration with the federal agencies managing federal lands within the borders  
17 of the state; and

18 WHEREAS, the Secretary of the Interior has determined that the species  
19 is neither endangered nor threatened under the Endangered Species Act; and

20 WHEREAS, the Congress and the President are to be commended for recog-  
21 nizing the unprecedented collaboration among the various states regarding  
22 greater sage-grouse conservation and the need to continue on-the-ground  
23 conservation and monitoring activities as recognized through the enact-  
24 ment of Section 117 of the Consolidated Appropriations Act of 2016 (P.L.  
25 114-113); and

26 WHEREAS, implementation of the state's conservation plan will produce  
27 scientific data related to disease or predation of the species, the adequacy  
28 of existing regulatory mechanisms, and other natural or man-made factors af-  
29 fecting the species' existence, all of which must be considered when con-  
30 serving the species; and

31 WHEREAS, the State of Idaho wishes to continue its collaboration with  
32 other states possessing current habitat for greater sage-grouse; and

33 WHEREAS, time is needed to continue to implement the state conservation  
34 plan over a period of multiple, consecutive sage-grouse life cycles to de-  
35 termine the efficacy of the plan and the need for modification, if any; and

36 WHEREAS, the Governor and Legislature of the State of Idaho are finding  
37 that the Secretary of the Interior through the Bureau of Land Management and  
38 the Secretary of Agriculture through the U.S. Forest Service are implement-  
39 ing terms and conditions on grazing permits and other types of permits that  
40 include conservation measures and/or management actions that are contrary  
41 and/or not consistent with the statewide sage-grouse conservation plan; and

42 WHEREAS, the Governor and Legislature of the State of Idaho were com-  
43 pelled to seek redress in federal court from the onerous, unnecessary, and

1 ill-conceived federal land use plan amendments adopted by the U.S. Depart-  
2 ments of Agriculture and of the Interior. That matter was dismissed in Jan-  
3 uary 2017 without a finding on the merits and is subject to appeal.

4 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular  
5 Session of the Sixty-fourth Idaho Legislature, the Senate and the House of  
6 Representatives concurring therein, that Congress should, by legislative  
7 enactment, provide protections for adoption and implementation of state  
8 sage-grouse conservation plans by, among other things, making no funds  
9 available for use by either the Secretary of the Interior or the Secretary  
10 of Agriculture to implement federal land use plan amendments if they are  
11 inconsistent with the state's sage-grouse conservation plan for a period  
12 of 10 years through and including fiscal year 2027; and provide a mechanism  
13 for the Governor of a state to ensure state sage-grouse plans can be imple-  
14 mented on lands operated by the Bureau of Land Management and the U.S. Forest  
15 Service; furthermore, that such congressional legislation should provide  
16 a mechanism to ensure that any federal resource management plans conform to  
17 state sage-grouse plans and that any inconsistencies of the federal resource  
18 management plans should be resolved by the Governor of the affected state to  
19 ensure federal resource management plans conform to state management plans  
20 for a period of at least 10 years.

21 BE IT FURTHER RESOLVED that Congress should continue to make no funds  
22 available for use by the Secretary of the Interior to consider, prepare,  
23 write, or issue, pursuant to Section 4 of the Endangered Species Act of 1973  
24 (16 U.S.C. 1533), a petition, finding or proposed regulation for greater  
25 sage-grouse for a period of 10 years through and including fiscal year 2027.

26 BE IT FURTHER RESOLVED that during this 10-year period, Congress should  
27 provide a litigation safe-harbor protecting: (a) the state sage-grouse man-  
28 agement plans from litigation by private activist organizations that would  
29 interfere with implementation of state sage-grouse management plans; and  
30 (b) the status of sage-grouse as "not-warranted" pursuant to Section 4 of the  
31 Endangered Species Act of 1973 (16 U.S.C. 1533), such that neither the state  
32 plans nor the "not-warranted" status is subject to judicial review.

33 BE IT FURTHER RESOLVED that during this 10-year period, the State of  
34 Idaho will continue to implement its sage-grouse conservation plan, thereby  
35 establishing and enhancing its efficacy over time.

36 BE IT FURTHER RESOLVED that Congress should, by legislation, recognize  
37 and encourage state primacy in the long-term management of sage-grouse and  
38 its habitat to ensure an effective and balanced approach that seeks to re-  
39 cover and protect sage-grouse populations while protecting state economic  
40 interests, educational funding from state lands, and valid existing rights,  
41 including private property rights.

42 BE IT FURTHER RESOLVED that we encourage the U.S. Departments of Agri-  
43 culture and of the Interior to conduct settlement discussions with the state  
44 in an effort to reach a settlement relating to sage-grouse and the federal  
45 land use plan amendments adopted by the U.S. Departments of Agriculture and  
46 of the Interior, associated with the federal court action that is now subject  
47 to appeal.

48 BE IT FURTHER RESOLVED that Congress continue to make no funds available  
49 for use by the Secretary of the Interior through the Bureau of Land Manage-  
50 ment to consider, prepare, write or issue any decision-documents pursuant

1 to 43 CFR 4100, Subpart 4160, based upon any determinations made pursuant  
2 to 43 CFR 4100, including any determinations made pursuant to Subpart 4180,  
3 that implement, or continue to implement, sage-grouse conservation mea-  
4 sures and/or sage-grouse management actions that are not prescribed by the  
5 statewide sage-grouse conservation plan and not approved by Idaho's Office  
6 of Species Conservation, for a period of 10 years through and including fis-  
7 cal year 2027.

8 BE IT FURTHER RESOLVED that Congress continue to make no funds available  
9 for use by the Secretary of Agriculture through the U.S. Forest Service to  
10 consider, prepare, write or issue any decision-documents pursuant to 36 CFR  
11 214, based upon any determinations made pursuant to 36 CFR 222, that imple-  
12 ment, or continue to implement, sage-grouse conservation measures and/or  
13 sage-grouse management actions that are not prescribed by the statewide  
14 sage-grouse conservation plan and not approved by Idaho's Office of Species  
15 Conservation, for a period of 10 years through and including fiscal year  
16 2027.

17 BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is  
18 hereby authorized and directed to forward a copy of this Memorial to the  
19 President of the Senate and the Speaker of the House of Representatives of  
20 Congress, and to the congressional delegation representing the State of  
21 Idaho in the Congress of the United States.