

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 14, 2022

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Vick, Vice Chairman McClusky (Heider), and Senators VanOrden (Bair), Blair (Johnson), Patrick, Guthrie, Burtenshaw, Stennett, and Semmelroth

ABSENT/ EXCUSED: None

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 Vick** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:32 p.m.

RS 29327 **50th Anniversary of the Sawtooth National Recreation Act. Senator Stennett** presented **RS 29327**. **Senator Stennett** stated this concurrent resolution recognizes the 50th anniversary of the Sawtooth National Recreation Act and celebrates the contributions made by Idahoans to protect and appreciate the incredible beauty of its landscape and the importance of its economic contributions. Congress approved the Sawtooth National Recreation Act on August 22, 1972, to preserve its natural, scenic, historic, pastoral, and recreation values. The Sawtooth National Recreation Area (SNRA) was dedicated to the people of Idaho and to the United States on September 1, 1972. The SNRA consists of 756,000 acres including the Sawtooth Wilderness, the Cecil Andrus Whitecloud Wilderness, Jim McClure Jerry Peak Wilderness and the Hemingway-Boulders Wilderness areas. It includes the Sawtooth, Whitecloud, Boulder, Pioneer, and Smoky Mountain Ranges, and over 700 miles of trails, 40 peaks rising over 10,000 feet, and more than 300 high elevation alpine lakes. This resolution includes recognition of the efforts of those involved in fifty years of work to maintain the area, and encourages the federal government and its agencies to work with state partners and stakeholders to preserve and protect the area.

DISCUSSION: **Senator Semmelroth** asked if the resolution included recognition of this area as a dark-sky area. **Senator Stennett** responded that recognition of the dark-sky preserve in the SNRA was a recent designation and was overlooked in the resolution. She added that she will mention this designation if this succeeds and goes to the floor. She added that this designation took ten years to establish and it was the first dark-sky preserve in the United States.

Senator Patrick asked if there was any plan to handle the increase in the number of people visiting this area. **Senator Stennett** responded that addressing this issue is ongoing. She added that part of the celebration will include a call to visitors to help with preservation activities. The area is not called a wilderness, but a recreation area, because Congress wanted it to be multi-use. As a result, communities remain in the area and help support it, as do non-profits and agencies such as the Sawtooth Society.

MOTION: **Senator Blair** moved that **RS 29327** be sent to print. **Senator Semmelroth** seconded the motion. The motion carried by **voice vote**.

RS 29551

Priest, Pend d'Oreille, and Coeur d'Alene Lakes - Appropriation of Waters in Trust for People. **Teresa Molitor**, representing Avista Corporation, presented **RS 29551**. **Ms. Molitor** explained this proposed legislation will provide the Idaho Department of Water Resources (IDWR) with clear authority to administer water rights associated with maintaining the elevations of Priest, Pend Oreille, and Coeur d'Alene in accordance with their natural attributes. To provide some background, **Ms. Molitor** shared that in 1927, and in response to the federal government attempting to use Priest, Pend Oreille, and Coeur d'Alene Lakes as irrigation storage reservoirs for reclamation of arid lands in the state of Washington, which would have resulted in unpredictable summertime lake water elevations, the legislature enacted Idaho Code § 67-4304. This legislation appropriated water rights in the name of the governor, in trust, for the people of the state of Idaho, for preservation of said lakes for their scenic beauty, health, recreation, transportation, and commercial purposes necessary and desirable for all inhabitants of the state. The proposed legislation adds language to Idaho Code § 67-4304 to underscore the original intent of the 1927 law and aligns the long standing public interest in maintaining the natural lakes of North Idaho with the need to express the water rights necessary to do so within the adjudication process.

DISCUSSION:

Senator Patrick requested a discussion on this legislation that included the Idaho Department of Water Resources and adjudication. **Ms. Molitor** agreed to follow up with Senator Patrick.

MOTION:

Senator Stennett moved that **RS 29551** be sent to print. **Senator Blair** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE:

Senator Stennett moved to send the Gubernatorial appointments of Mr. Dean Stevenson and Mr. Brian Olmstead to the Idaho Water Resource Board to the floor with the recommendation that they be confirmed by the Senate. **Vice Chairman McClusky** seconded the motion. The motion carried by **voice vote**. Senator Anthon will carry the appointment of Dean Stevenson on the floor. Senator Patrick will carry the appointment of Brian Olmstead on the floor.

GUBERNATORIAL REAPPOINTMENT VOTE:

Senator Guthrie moved to send the Gubernatorial appointments of Mr. Albert Barker and Mr. Roger Chase to the Idaho Water Resource Board to the floor with the recommendation that they be confirmed by the Senate. **Senator Blair** seconded the motion. The motion carried by **voice vote**. Senator Burtenshaw will carry the appointment of Albert Barker on the floor. Senator Guthrie will carry the appointment of Roger Chase on the floor.

S 1264

Revisions to the Department of Environmental Quality's Voluntary Cleanup Program and the Idaho Land Remediation Act. **Michael McCurdy**, Waste Management & Remediation Division Administrator, Department of Environmental Quality (DEQ), explained the proposed changes to the Idaho Land Remediation Act, or Idaho Code § 72 Title 39. DEQ's voluntary cleanup program was created in 1996 by the Idaho Land Remediation Act to encourage innovation and cooperation between the State, local communities, and private parties to revitalize properties with hazardous substance or petroleum contamination. The voluntary clean up program has been successful, but DEQ feels it was under-utilized. Currently, there are only eight active sites in the program and 40 other sites that are inactive or closed.

Mr. McCurdy noted proposed revisions to Idaho Code § 39-7202 to clarify several elements, mainly revolving around increasing eligibility. Proposed revisions included expanding participation beyond commercial and industrial sites, investigation as well as remediation activities, including sites with perceived as well as known contamination, and removing outdated and redundant information. Revisions to Idaho Code § 39-7203(3) changed the term "eligible

property owner" to "eligible participant" and expand program eligibility to include responsible parties or owners of property where the release occurred. Revisions to Idaho Code § 39-7208 clarified the rescission of the voluntary mediation agreement, certificate of completion, or the covenant not to sue. Revisions in Idaho Code § 39-7211(6)(d) clarified when a rebate issued under the Community Reinvestment Pilot may be returned by the participant.

DISCUSSION:

In response to questions from **Senator Stennett, Mr. McCurdy** made some clarifications. He stated revisions to 39-7203(3) expand eligibility to essentially anybody. He reviewed the steps in the application process and determining eligibility for the voluntary cleanup program, including obtaining permission to access to the property, if needed. He clarified only the ten sites that were included in the Community Reinvestment Pilot were eligible for the \$150,000 rebate, and the rebate was up to 70 percent of the total remediation costs. For those sites that were in the Community Reinvestment Pilot, the applicant provides information regarding what they spent and DEQ verifies this prior to issuing a rebate. For those who are not in the Community Reinvestment Pilot, DEQ evaluates their application, and then negotiates a voluntary remediation agreement that outlines what the applicant is going to do and in what time frames. This agreement includes DEQ oversight. DEQ will review critical aspects of the project, and spot check work throughout the process. Often, environmental consultants and other contractors do the work, so DEQ relies on professional practice. At completion, the applicant provides a report on what they did and how they might have deviated from the initial plan. DEQ reviews and verifies this final report.

Senator Burtenshaw requested a definition of perceived contamination, as on revised 39-7202(2). **Mr. McCurdy** responded this a potential, but unconfirmed, situation based on prior use of the property.

After some discussion between **Chairman Vick** and **Mr. McCurdy** regarding the definitions of a certificate of completion and the covenant not to sue, **Chairman Vick** suggested amending the bill to add these definitions.

MOTION:

Senator Patrick moved to send **S 1264** to the 14th order of business for possible amendment. **Senator Blair** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business as this time, **Chairman Vick** adjourned the meeting at 2:32 p.m.

Senator Vick
Chair

Shelly Johnson
Secretary