

IN THE SENATE

SENATE BILL NO. 1149

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO FISH AND GAME; AMENDING SECTION 36-104, IDAHO CODE,  
 2 TO AUTHORIZE THE FISH AND GAME COMMISSION TO ADOPT RULES  
 3 GOVERNING THE COLLECTION OF FEES TO RECOVER COSTS RELATING  
 4 TO THE PERFORMANCE OF CERTAIN TECHNICAL SERVICES PROVIDED  
 5 BY THE DEPARTMENT REGARDING LAND AND WATER USE, TO PROVIDE  
 6 GUIDELINES RELATING TO FEES COLLECTED AND TO PROVIDE FOR THE  
 7 DEPOSIT OF FEES COLLECTED.  
 8

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

10 SECTION 1. That Section 36-104, Idaho Code, be, and the same is hereby amended to  
 11 read as follows:

12 36-104. GENERAL POWERS AND DUTIES OF COMMISSION. (a) Organization –  
 13 Meetings. The members of the commission shall annually meet at their offices and organize by  
 14 electing from their membership a chairman, who shall hold office for a period of one (1) year,  
 15 or until his successor has been duly elected. In addition to the regular annual meeting, to be  
 16 held in January, said commission shall hold other regular quarterly meetings each year at such  
 17 places within the state as the commission shall select for the transaction of business. Special  
 18 meetings may be called at any time and place by the chairman or a majority of the members of  
 19 the commission. Notice of the time, place and purpose of any and all special meetings shall be  
 20 given by the secretary to each member of the commission prior to said meeting.

21 (b) Authorization for Commission Powers and Duties. For the purpose of administering  
 22 the policy as declared in section 36-103, Idaho Code, the commission is hereby authorized and  
 23 empowered to:

24 1. Investigate and find facts regarding the status of the state’s wildlife populations in  
 25 order to give effect to the policy of the state hereinbefore announced.

26 2. Hold hearings for the purpose of hearing testimony, considering evidence and  
 27 determining the facts as to when the supply of any of the wildlife in this state will be  
 28 injuriously affected by the taking thereof, or for the purpose of determining when an  
 29 open season may be declared for the taking of wildlife. Whenever said commission  
 30 determines that the supply of any particular species of wildlife is being, or will be, during  
 31 any particular period of time, injuriously affected by depletion by permitting the same to  
 32 be taken, or if it should find a longer or different season, or different bag limit should  
 33 be adopted for the better protection thereof, or if it finds that an open season may be  
 34 declared without endangering the supply thereof, then it shall make a rule or proclamation  
 35 embodying its findings in respect to when, under what circumstances, in which localities,  
 36 by what means, what sex, and in what amounts and numbers the wildlife of this state may  
 37 be taken.

1 3. Whenever it finds it necessary for the preservation, protection, or management of any  
2 wildlife of this state, by reason of any act of God or any other sudden or unexpected  
3 emergency, declare by temporary rule or proclamation the existence of such necessity, and  
4 the cause thereof, and prescribe and designate all affected areas or streams, and close  
5 the same to hunting, angling or trapping, or impose such restrictions and conditions upon  
6 hunting, angling or trapping as said commission shall find to be necessary. Every such  
7 temporary rule shall be made in accordance with the provisions of chapter 52, title 67,  
8 Idaho Code.

9 4. At any time it shall deem necessary for the proper management of wildlife on any  
10 game preserve in the state of Idaho, declare an open season in any game preserve as it  
11 deems appropriate.

12 5. (A) Upon notice to the public, hold a public drawing giving to license holders,  
13 under the wildlife laws of this state, the privilege of drawing by lot for a  
14 controlled hunt permit authorizing the person to whom issued to hunt, kill, or  
15 attempt to kill any species of wild animals or birds designated by the commission  
16 under such rules as it shall prescribe.

17 (B) The commission may, under rules or proclamations as it may prescribe,  
18 authorize the director to issue additional controlled hunt permits and collect fees  
19 therefor authorizing landowners of property valuable for habitat or propagation  
20 purposes of deer, elk or antelope, or the landowner's designated agent(s) to hunt  
21 deer, elk or antelope in controlled hunts containing the eligible property owned by  
22 those landowners in units where any permits for deer, elk or antelope are limited.

23 (C) A nonrefundable fee as specified in section 36-416, Idaho Code, shall be  
24 charged each applicant for a controlled hunt permit. Successful applicants for  
25 controlled hunt permits shall be charged the fee as specified in section 36-416,  
26 Idaho Code. Additionally, a fee may be charged for telephone and credit card  
27 orders in accordance with subsection (e)11. of section 36-106, Idaho Code. The  
28 department shall include a checkoff form to allow applicants to designate one  
29 dollar (\$1.00) of such nonrefundable application fee for transmittal to the reward  
30 fund of citizens against poaching, inc., an Idaho nonprofit corporation. The net  
31 proceeds from the nonrefundable fee shall be deposited in the fish and game  
32 account and none of the net proceeds shall be used to purchase lands.

33 6. Adopt rules pertaining to the importation, exportation, release, sale, possession or  
34 transportation into, within or from the state of Idaho of any species of live, native or  
35 exotic wildlife or any eggs thereof.

36 7. Acquire for and on behalf of the state of Idaho, by purchase, condemnation, lease,  
37 agreement, gift, or other device, lands or waters suitable for the purposes hereinafter  
38 enumerated in this paragraph. Whenever the commission proposes to purchase a tract  
39 of land in excess of fifteen (15) acres, the commission shall notify the board of county  
40 commissioners of the county where this land is located of the intended action. The  
41 board of county commissioners shall have ten (10) days after official notification to notify  
42 the commission whether or not they desire the commission to hold a public hearing on  
43 the intended purchase in the county. The commission shall give serious consideration  
44 to all public input received at the public hearing before making a final decision on the  
45 proposed acquisition. Following any land purchase, the fish and game commission shall  
46 provide, upon request by the board of county commissioners, within one hundred twenty

1 (120) days, a management plan for the area purchased that would address noxious weed  
 2 control, fencing, water management and other important issues raised during the public  
 3 hearing. When considering purchasing lands pursuant to this paragraph, the commission  
 4 shall first make a good faith attempt to obtain a conservation easement, as provided in  
 5 chapter 21, title 55, Idaho Code, before it may begin proceedings to purchase, condemn  
 6 or otherwise acquire such lands. If the attempt to acquire a conservation easement is  
 7 unsuccessful and the commission then purchases, condemns or otherwise acquires the  
 8 lands, the commission shall record in writing the reasons why the attempt at acquiring  
 9 the conservation easement was unsuccessful and then file the same in its records and in  
 10 a report to the joint finance-appropriations committee. The commission shall develop,  
 11 operate, and maintain the lands, waters or conservation easements for said purposes,  
 12 which are hereby declared a public use:

13 (A) For fish hatcheries, nursery ponds, or game animal or game bird farms;

14 (B) For game, bird, fish or fur-bearing animal restoration, propagation or  
 15 protection;

16 (C) For public hunting, fishing or trapping areas to provide places where the  
 17 public may fish, hunt, or trap in accordance with the provisions of law, or the  
 18 regulation of the commission;

19 (D) To extend and consolidate by exchange, lands or waters suitable for the above  
 20 purposes.

21 8. Enter into cooperative agreements with educational institutions, and state, federal, or  
 22 other agencies to promote wildlife research and to train students for wildlife management.

23 9. Enter into cooperative agreements with state and federal agencies, municipalities,  
 24 corporations, organized groups of landowners, associations, and individuals for the  
 25 development of wildlife rearing, propagating, management, protection and demonstration  
 26 projects.

27 10. In the event owners or lawful possessors of land have restricted the operation of  
 28 motor-propelled vehicles upon their land, the commission, upon consultation with all  
 29 other potentially affected landowners, and having held a public hearing, if requested by  
 30 not less than ten (10) residents of any county in which the land is located, may enter  
 31 into cooperative agreements with those owners or possessors to enforce those restrictions  
 32 when the restrictions protect wildlife or wildlife habitat. Provided, however, the  
 33 commission shall not enter into such agreements for lands which either lie outside or are  
 34 not adjacent to any adjoining the proclaimed boundaries of the national forests in Idaho.

35 (A) The landowners, with the assistance of the department, shall cause notice  
 36 of the restrictions, including the effective date thereof, to be posted on the main  
 37 traveled roads entering the areas to which the restrictions apply. Provided,  
 38 however, that nothing in this subsection shall allow the unlawful posting of signs  
 39 or other information on or adjacent to public highways as defined in subsection (5)  
 40 of section 40-109, Idaho Code.

41 (B) Nothing in this section authorizes the establishment of any restrictions that  
 42 impede normal forest or range management operations.

43 (C) No person shall violate such restrictions on the use of motor-propelled  
 44 vehicles or tear down or lay down any fencing or gates enclosing such a restricted  
 45 area or remove, mutilate, damage or destroy any notices, signs or markers giving

1 notice of such restrictions. The commission may promulgate rules to administer  
2 the restrictions and cooperative agreements addressed in this subsection.

3 11. Capture, propagate, transport, buy, sell or exchange any species of wildlife needed for  
4 propagation or stocking purposes, or to exercise control of undesirable species.

5 12. Adopt rules pertaining to the application for, issuance of and administration of a  
6 lifetime license certificate system.

7 13. Adopt rules governing the application and issuance of permits for and administration  
8 of fishing contests on waters under the jurisdiction of the state. The fee for each permit  
9 shall be as provided for in section 36-416, Idaho Code.

10 14. Adopt rules governing the application for and issuance of licenses by telephone and  
11 other electronic methods.

12 15. Enter into agreements with cities, counties, recreation districts or other political  
13 subdivisions for the lease of lands or waters, in accordance with all other applicable  
14 laws, including applicable provisions of titles 42 and 43, Idaho Code, to cost-effectively  
15 provide recreational opportunities for taxpayers or residents of those local governments  
16 or political subdivisions.

17 16. Adopt rules governing the collection of fees to recover costs for the performance  
18 of technical services relating to land and water use that the department, subject to  
19 commission approval, may provide upon solicitation, whether by the public or private  
20 sector, which services are not required to be performed by the department pursuant to  
21 Idaho law. Such technical services may include compilation and evaluation of wildlife  
22 information; wildlife database management; assessment of potential effects on wildlife  
23 and wildlife-associated recreation; evaluation of habitat quality, proposed improvements  
24 or mitigation; and review of environmental analyses. The fees collected pursuant to this  
25 section shall be reasonably related to, but shall not exceed, the actual cost of the service  
26 being rendered. Any fees collected pursuant to the provisions of this section shall be  
27 deposited in the fish and game account as established in section 36-107, Idaho Code.

28 (c) Limitation on Powers. Nothing in this title shall be construed to authorize the  
29 commission to change any penalty prescribed by law for a violation of its provisions, or to  
30 change the amount of license fees or the authority conferred by licenses prescribed by law.

31 (d) Organization of Work. The commission shall organize the department, in accordance  
32 with the provisions of title 67, Idaho Code, into administrative units as may be necessary to  
33 efficiently administer said department. All employees of the department except the director  
34 shall be selected and appointed by the director in conformance with the provisions of chapter  
35 53, title 67, Idaho Code.