

IN THE SENATE

SENATE BILL NO. 1169

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC UTILITIES COMMISSION AND ELECTRIC UTILITY
 2 WATER RIGHTS; TO PROVIDE FINDINGS AND A STATEMENT OF PURPOSE,
 3 TO PROVIDE THAT THE PUBLIC UTILITIES COMMISSION SHALL HAVE NO
 4 JURISDICTION TO CONSIDER CERTAIN ISSUES, TO PROVIDE THAT THE
 5 IDAHO PUBLIC UTILITIES COMMISSION SHALL ACCEPT AS REASONABLE
 6 AND IN THE PUBLIC INTEREST FOR ALL PURPOSES ARTICLE II OF
 7 THE FRAMEWORK REAFFIRMING THE SWAN FALLS SETTLEMENT IN
 8 ANY PROCEEDINGS BEFORE THE COMMISSION AND TO PROVIDE THAT
 9 IMPLEMENTATION OF PROVISIONS OF ARTICLE II OF THE FRAMEWORK
 10 REAFFIRMING THE SWAN FALLS SETTLEMENT SHALL NOT CONSTITUTE A
 11 SALE, ASSIGNMENT, CONVEYANCE OR TRANSFER AS SPECIFIED.
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13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. FINDINGS AND STATEMENT OF PURPOSE. On October 25,
 15 1984, the Governor, Attorney General and Idaho Power Company entered into a contract,
 16 known as the "Swan Falls Agreement," to memorialize and implement the settlement of a
 17 continuing controversy over electric utility water rights in the Snake River Basin above the
 18 Murphy U.S.G.S. gaging station, which was approved and implemented by the Legislature.
 19 The Governor, Attorney General and Idaho Power Company have executed a Framework
 20 Reaffirming the Swan Falls Settlement dated March 25, 2009, as maintained in the files of the
 21 Idaho Department of Water Resources, that resolves pending litigation regarding the intent of
 22 the parties with respect to certain aspects of the settlement. The Legislature finds that Article II
 23 of said Framework and the exhibits thereto are in the public interest for all purposes including,
 24 but not limited to, all purposes under the public utilities law, as amended. Implementation
 25 of the Framework will resolve continuing controversy and litigation over electric utility water
 26 rights in the Snake River Basin above the Murphy U.S.G.S. gaging station and reaffirm the
 27 terms and original purposes of the Swan Falls settlement and further the implementation
 28 thereof.

29 SECTION 2. PUBLIC UTILITIES COMMISSION – JURISDICTION. The Idaho
 30 Public Utilities Commission shall have no jurisdiction to consider in any proceeding, whether
 31 instituted before or after the effective date of this act, any issue as to whether any electric
 32 utility, including Idaho Power Company, should have or could have preserved, maintained
 33 or protected its water rights and hydroelectric generation in a manner inconsistent with the
 34 Framework Reaffirming the Swan Falls Settlement entered into by the Governor, Attorney
 35 General and the Idaho Power Company dated March 25, 2009.

36 SECTION 3. IDAHO PUBLIC UTILITIES COMMISSION – EFFECT OF
 37 AGREEMENT. In any proceeding before the Idaho Public Utilities Commission including,
 38 but not limited to, a proceeding in which the Commission is setting or reviewing the revenue

1 requirements of any electric utility, including Idaho Power Company, the Commission shall
2 accept as reasonable and in the public interest for all purposes, Article II of the Framework
3 Reaffirming the Swan Falls Settlement entered into by the Governor, Attorney General and
4 the Idaho Power Company on March 25, 2009, and the exhibits thereto, including without
5 limitation, the effects of implementation of such provisions of the Framework on the utility's
6 revenue requirements and hydroelectric generation.

7 SECTION 4. EXEMPTION. Implementation of provisions of Article II of the
8 Framework Reaffirming the Swan Falls Settlement entered into by the Governor, Attorney
9 General and the Idaho Power Company on March 25, 2009, shall not constitute a sale,
10 assignment, conveyance or transfer within the meaning of Sections 61-327, 61-328, 61-329,
11 61-330 and 61-331, Idaho Code, to the extent any of those sections may apply.