

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, March 12, 2012

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Broadsword, Senators Darrington, Smyser, Heider, Vick, Bock, and Schmidt

ABSENT/ EXCUSED: Senator Nuxoll

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.

MINUTES: **Chairman Lodge** called the meeting to order at 3:04 p.m.

MINUTES APPROVAL: **Senator Bock** moved, seconded by **Senator Darrington**, that the minutes of February 9, 2012 be approved. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Smyser** moved, seconded by **Senator Bock**, that the minutes of February 13, 2012 be approved. The motion carried by **voice vote**.

GUBERNATORIAL CONFIRMATION HEARING **Curt Fransen**, of Garden City, Idaho, was appointed Director of the Department of Environmental Quality (DEQ) to serve a term commencing February 24, 2012, and serving at the pleasure of the Governor. He provided the Committee with a short biography of his professional and personal life, indicating that he had lived and worked in Idaho for the past 30 years. He worked in the Office of the Attorney General for about 24 years, representing the Division of Health, within the Department of Health and Welfare, where he recalls working on the Clean Indoor Air Act. He also represented the Division of Environmental Quality within the Department of Health and Welfare and was the Chief of the Environmental Quality Section of the Natural Resources Division in the Attorney General's Office. During his tenure with the Attorney General's Office, he also represented other state resource agencies including the Department of Lands, Department of Parks and Recreation, and Department of Fish and Game. He provided further highlights of his career projects, including a number of long-term environmental issues important to Idaho. Since 2007 he has served as Deputy Director for the DEQ and looks forward to the transition as Director if his appointment is confirmed. His priority at DEQ will be to maintain and enhance the progress that DEQ has made under the leadership of **Director Hardesty**.

Supporting documents related to this testimony have been archived and can be accessed in the office of the Committee Secretary (see Attachment 1).

Senator Darrington commented that he cut his teeth in the Idaho State Legislature on the Hazardous Waste Management Act and was schooled by Ken Brooks, head of DEQ when it was a division under the Department of Health and Welfare. He stated Mr. Brooks perspective was that if the State can position itself into a place to gain primacy in certain areas where primacy is available, such as hazardous waste, that DEQ will be in a better position than the federal government to work with folks on an ongoing basis. He asked if **Director Fransen** agreed with Mr. Brooks' perspective on primacy. **Director Fransen** stated that he agrees with that statement and added that primacy is the opportunity for the State to run federal programs in lieu of the federal government offering some definite advantages to the state, to our environment, and our regulation entities. We are simply closer to the ground here than people in Seattle or Washington, D.C. If we can integrate permitting

programs and primacy programs into the ones we have, we will have a broader picture perhaps than people sitting someplace else. He added one caveat, and that is we need to make sure if we are going to take these programs over, that we have the funding, staff, and the will to operate those programs effectively, otherwise the Environmental Protection Agency (EPA) will take over the job. We need to be able to defend our decisions and ourselves from the federal government accordingly.

Senator Vick asked what Mr. Fransen's view is on how primacy will affect what they are trying to accomplish with regard to the Spokane River. **Director Fransen** responded the main issue involved is the pending NPS permits for the wastewater discharges by the cities of Coeur d'Alene, Post Falls, and east Hayden. The difficulty is that the Environmental Protection Agency (EPA) issues those permits and, by law, they have to meet the downstream state standards. The state of Washington has a very low dissolved oxygen (DO) standard so to combat that low D.O. level they are instituting very, very low nutrient requirements for the Idaho dischargers. If the state had NPS primacy, he believes the state would be in a better position to self-interpret those downstream standards and apply those standards to the Idaho NPS permit for those entities and come up with scenarios that would allow the permits to be phased in over time.

Senator Vick asked for Mr. Fransen's perspective on a second major concern in Northern Idaho - Silver Valley and the EPA. **Director Fransen** responded he has personally worked on the Bunker Hill superfund site for approximately 25 years. He stated they are turning a corner from a public health clean up to an environmental clean up with the main issue now being water quality in the south fork of the Coeur d'Alene, and in the gulches and creeks above the south fork of the Coeur d'Alene and down to the river.

Senator Vick asked if mining might become a growing part of the economy again. **Director Fransen** replied that he believes it can, and that there is good evidence of that. He highlighted several areas of mining evaluation and exploration work in various stages of process related to the Hecla Mining Company and the Sunshine Mine.

Senator Schmidt asked **Director Fransen** to expound on his vision for the DEQ in relation to his comments about the process of taking "small incremental steps" in moving forward as Director. He responded that DEQ's overall mission is to protect our environment - water, land, and air. In terms of vision, he stated he believes we need to take control of as much environmental protection programming as possible within the state. **Director Fransen** acknowledged the importance of transparency, and making sure what they are doing through their rules, regulations, programs, and permits is effective in giving us what we want, and is cost effective as well. He stated they need to keep looking across the state where we have significant groundwater and surface water issues. Using common sense, they must continue the process that will provide a good environment for our children and grandchildren.

Vice Chairman Broadsword asked what **Director Fransen's** approach will be if there are contentious issues that have DEQ employees on one side and taxpayers on the other. He advised that legislative intent, as reflected in *Idaho Code*, is that we use the best science and facts available. He believes that means they must, in requiring people to do or not do certain things that result in an expenditure of money, utilize information that is discernible and can be replicated rather than going on emotions, hoax, or hopeful aspirations. In addition, they must apply common sense, and must be confident that what is being required is effective and will achieve the desired results. He also believes they must be transparent and responsive. He recognized the need to work collaboratively and openly with as many people and with as many resources as they can.

Vice Chairman Broadsword commented that strong leadership at DEQ will be required for his employees to understand they cannot run "roughshod" over people, but must demonstrate what the facts are and that those facts are supportable. In regard to some recent newspaper articles, she asked what the DEQ's response would be to the request for expansion of field burning to weekends and holidays.

Director Fransen reviewed the history of the field burning program and stated that since there are only so many good burn days in Idaho, spreading those days out by using weekends will provide the opportunity of trying to find good burn days where the smoke goes straight up. Some of those fields are near schools; since there are restrictions on burning fields that are close to schools, it will be helpful to have the option to burn on weekends when school is not in session.

Vice Chairman Broadsword noted **Director Hardesty** expressed a concern in her JFAC presentation about losing key personnel due to funding/budget issues. She asked **Director Fransen** how he would address that need to do more with less and keep key employees. He expressed he is happy to see that the Legislature may approve a 2 percent increase in salaries and merit increases, which should give their employees the sense that something is changing.

Vice Chairman Broadsword asked how he will communicate and facilitate toward common ground on difficult issues. **Director Fransen** responded that the DEQ needs to be as transparent as they can and identify where there are interests and try to understand what those interests are and reach out to the citizens.

Chairman Lodge thanked the Director for appearing before the Committee and for his thorough answers to the questions from the Committee. She advised that a vote will be taken on his nomination at the next meeting.

H 522AA

Relating to Public Assistance Benefit Cards. Representative Christy Perry, District 13, stated that currently, a large number of Idahoans receive monetary benefits from the Temporary Assistance for Needy Families (TANF) program. The money is issued as a monthly cash allowance and is generally distributed via public assistance benefit (EBT) cards. TANF is designed to be a supplement to low income families for necessary or urgent needs.

Currently, there are no restrictions as to how the EBT cards or cash obtained with EBT cards can be used. **H 522aa** seeks to prohibit the use of public assistance benefit cards or cash obtained with public assistance benefit cards from being expended for inappropriate purchases or venues.

@ 37:32

Representative Perry acknowledged that **Rosie Andueza**, **Orie Garcia**, and **Steve Bellomy**, from the Department of Health and Welfare (Department), were present for assistance with questions about the legislation. She stated she had worked with the Attorney General for the Department and **Senator Bock** to clear up questions the Committee had when this bill was previously presented. The questions related to the phrase "cash obtained with public assistance benefit cards" and why this bill specifies a misdemeanor penalty while previously passed legislation related to EBT cards specifies a felony penalty. She advised that:

- Understanding the Department's limitations, they made every effort to define the term "cash" in the bill on line 18, which states "cash obtained with public assistance benefit cards."
- The felony penalty provided for in S 1293 relates to trafficking and is in line with federal regulations. The misdemeanor penalty provided for in H 522aa relates to money that comes from the TANF block grant and deals with what is needed at the state level. She stated there does not appear to be a conflict between these two provisions.

Senator Bock expressed his appreciation to **Representative Perry** for working with him. He feels the cash reference could be refined; however, he does not want to hold up the bill for something that is probably going to have an insignificant effect.

Senator Smyser commented that she appreciates **Representative Perry's** work on this, but stated that it still appears that we are not going to be able to trace the cash. **Representative Perry** replied that if someone was to withdraw cash at any ATM they would not be able to track that at this point in time. However, if they use the EBT card in a particular casino or prohibited retailer, they will be able to track where the card was used.

MOTION: **Senator Bock** moved, seconded by **Senator Vick**, that **S 522aa** be sent to the floor with a do pass recommendation. The motion carried by **voice vote**. **Senator Vick** will sponsor the bill on the floor.

ADJOURMENT: **Chairman Lodge** stated there will be no meeting on Tuesday, March 13th, and adjourned the meeting at 3:47 p.m.

Senator Lodge
Chairman

Lois Bencken
Secretary

Diana Page
Assistant Secretary