

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, February 07, 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, Stennett, and Semmelroth

**ABSENT/ EXCUSED:** Senator Burtenshaw

**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 1:30 p.m.

**RS 29348** **Relating to Irrigation Districts and Oaths.** Norman Semanko introduced **RS 29348** on behalf of Paul Arrington, Executive Director of the Idaho Water Users Association. **Mr. Semanko** explained this legislation amends Idaho Code § Section 43-201, to include residency requirements as part of the nominee's oath for irrigation district board elections. The current statutory for the nominee's oath includes language for all criteria except the residency requirement, which has allowed ineligible board candidates to sign the oath.

**DISCUSSION:** **Senator Stennett** asked for clarification on the residency requirement, as far as length of time living in Idaho or the district. **Mr. Semanko** responded that this legislation only refers to residing in the district, not a length of time residing in the district or the State.

**MOTION:** **Senator Stennett** moved that **RS 29348** be sent to print. **Senator Blair** seconded the motion. The motion carried by **voice vote**.

**RS 29349** **Relating to Irrigation and Canal Companies.** **Mr. Semanko** explained **RS 29349** amends Idaho Code § 42-2401 to provide consistency in the notice requirements for canal companies. Idaho Code § 42-2401(6) currently requires that notice of changes to a canal company's articles of incorporation or bylaws be published in the newspaper once a week for four weeks prior to the meeting at which proposed changes will be considered. Idaho Code § 42-2401(10) currently requires that notice of the meeting be published in the newspaper for two weeks prior to the meeting. This amendment would align the notice required for changes to articles of incorporation and bylaws with the notice requirement for meetings.

**MOTION:** **Senator VanOrden** moved that **RS 29349** be sent to print. **Senator Patrick** seconded the motion. The motion carried by **voice vote**.

**RS 29350** **Relating to Irrigation Districts and Voters.** **Mr. Semanko** explained **RS 29350** amends Idaho Code § 43-111 to clarify that only those who own lands that are subject to assessment and entitled to receive water are eligible to vote in an irrigation district election. Current law provides that anyone living within the greater irrigation district boundary may vote in an election even when they are not entitled to receive water and are not assessed by the irrigation district.

**MOTION:** **Senator Guthrie** moved that **RS 29350** be sent to print. **Senator Blair** seconded the motion. The motion carried by **voice vote**.

**RS 29351**

**Relating to Real Property.** **Mr. Semanko** explained **RS 29351** creates new Idaho Code § 55-616, which outlines what happens with water rights and entitlements when a property changes hands. The bill codifies existing common law and practice relating the conveyance of water rights and entitlements, including that all appurtenant water rights are conveyed unless expressly retained by the seller. In addition, all entitlements to receive water from an irrigation district, city irrigation system, or canal company are conveyed as are the obligations associated with membership in a ground water district.

**DISCUSSION:**

**Senator Patrick** asked for clarification on the buying and selling of water rights when they do not go with the land, and if that would continue to be acceptable under this legislation. **Mr. Semanko** answered yes. He referred to Line 33, "a transfer of real property that is entitled to receive water from the water rights of a canal company, ditch company, association, or other water delivery entity, passes the rights and obligations of the property relative to the entity's distribution of water and assessments, subject to the bylaws of the water delivery entity." **Mr. Semanko** stated those bylaws will, in most cases, allow this kind of transfer, subject to board approval.

**Senator Guthrie** asked for confirmation that under this legislation, the default would be that the water goes with the land, unless specified otherwise. **Mr. Semanko** responded that this is correct.

**MOTION:**

**Senator Blair** moved that **RS 29351** be sent to print. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT VOTE:**

**Senator Patrick** moved to send the gubernatorial appointment of Mr. David Bobbitt to the Idaho Fish and Game Commission to the floor with recommendation that he be confirmed by the Senate. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**. Senator Riggs will carry the appointment on the floor.

**GUBERNATORIAL APPOINTMENT VOTE:**

**Senator Guthrie** moved to send the gubernatorial appointment of Mr. Mike Edmondson to the Office of Species Conservation to the floor with recommendation that he be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **voice vote**. Senator Patrick will carry the appointment on the floor.

**MINUTES APPROVAL:**

**Senator Semmelroth** moved to approve the Minutes of January 24, 2022. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

**PRESENTATION:**

**American Rescue Plan Act (ARPA) Funding of Wastewater and Drinking Water Projects.** **Alex Adams**, Administrator, Division of Fiscal Management (DFM), presented an overview of ARPA, and reviewed the Governor's recommendations relative to how to spend ARPA funds on natural resources related projects. (Attachment 1)

**Mr. Adams** provided some details on the Governor's recommendations (Attachment 1, page 6). Funding for the first three areas, recharge and water storage projects, water quality and remediation, and local drinking and wastewater, would be overseen by the Idaho Department of Water Resources (IDWR). Funding for outdoor recreation projects would be overseen by the Idaho Department of Parks and Recreation (IDPR).

Requested funding for recharge and water storage projects would fully fund the Anderson Ranch dam raising, the Mountain Home Air Force Base pipeline project, and the upper Snake River recharge projects.

Requested funding for water quality and remediation projects would primarily be

for Coeur d'Alene Lake cleanup. The Coeur d'Alene Lake Advisory Committee submitted \$20 or \$30 million worth of projects. Funding would also be for abandoned mine cleanup, such as cleanup at the Triumph Mine site, or projects of this nature.

**Mr. Adams** stated the majority of states are allocating ARPA resources towards local drinking and wastewater projects. He explained that ARPA funding is structured like grants and projects have to be completed by December 2026, so the Legislature has to obligate the funds by 2024. As there is a long lead time for these kinds of projects, funded projects should be "shovel ready" projects that can start soon and be completed on time. Due to the significant response to a letter of intent sent by the Department of Environmental Quality (DEQ), the Governor recommended \$300 million go to DEQ, who would use their existing processes to prioritize how best to spend that \$300 million. The prioritization criteria would be the project's ability to be completed by December 2026 with top priority going to communities with the least ability to pay. Ability to pay would be determined by factors such as the size of the system, the number of users on the system, monthly user rates, tax base, median income, and readiness to proceed.

**Mr. Adams** stated the Governor recommended \$45 million for outdoor recreation. The Governor recommends this for increased access as well as deferred maintenance. Funding would increase the number of campsites statewide by 12.6 percent and the number of day use areas by 10 percent. It would also address the \$75 million deferred maintenance backlog for everything from showers to trails.

**DISCUSSION:**

**Chairman Vick** asked how "shovel ready" projects will be determined. **Mr. Adams** stated it is likely that applicants will be required to attest that their project can be completed by 2026. DEQ will also review where applicants are in the design process based on completed design work as well as environmental impact studies. They will use this criteria to determine if they are likely to complete their project by the deadline. **Jess Byrne**, Director for DEQ, added that representatives from his office already work closely with the systems that are seeking this funding. DEQ is reaching out to the ones that completed letters of interest to determine more details on each project and the likelihood that they can be completed by 2026. **Chairman Vick** asked if funds required money from communities in order to participate. **Mr. Byrne** responded that they do not, although ARPA grants may not provide 100 percent funding.

**Senator Patrick** asked about the financial risk to applicants who, if they are far along in the design process, have already spent a good deal of money. **Mr. Byrne** responded it is unlikely that they will have a clear criteria for "shovel ready", but the further along the project is in the planning and engineering process, the more likely it is that it could be funded. He added that DFM used two million of ARPA money appropriated by the Legislature last year to fund planning grants, and this may be why they saw a high number of construction grant applications this year.

**Senator Guthrie** asked about the deadline for ARPA funding applications. **Mr. Byrne** stated their letter of interest solicitation period already closed for this cycle. If they open another cycle will depend on funding allocated by the Legislature. **Mr. Guthrie** asked who would be financially liable if ARPA funded projects were not completed on time. **Mr. Byrne** stated the Treasury was clear that the State would be liable for funds to applicants that did not meet the deadline. **Mr. Adams** added that the deadline could be flexible if the State is able to document circumstances beyond their control and demonstrate a good faith effort to meet the deadline. **Senator Guthrie** asked if the State or another entity would be liable. **Mr. Adams** responded that details on how grants are structured have not been determined.

**Chairman Vick** asked for more details about funding for the Coeur d'Alene River Basin and Lake. **Mr. Adams** responded based on applications for \$2 million in one-time funds appropriated by the Legislature last year to use for lake cleanup projects, he believes there are a substantial number of projects in this area that could be quickly mobilized to improve the quality of the Coeur d'Alene Lake, although the Governor recommended that DEQ prioritize what remediation is most needed in the State. **Mr. Byrne** added the minimum amount allocated for Coeur d'Alene Lake nutrient reduction projects was \$20 million, and for Triumph Mine about \$7 million, with the remainder going towards other contaminated site cleanup and abandoned mines. **Mr. Byrne** confirmed funding for the Coeur d'Alene River Basin and Lake has the same 2026 completion deadline.

**ADJOURNED:** There being no further business as this time, **Chairman Vick** adjourned the meeting at 2:45 p.m.

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Senator Vick  
Chair

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Shelly Johnson  
Secretary