

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 13, 2023

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Burtenshaw, Vice Chairman Adams, Senators Guthrie, Den Hartog, Harris, Schroeder, Semmelroth, and Taylor

ABSENT/ EXCUSED: Senator Okuniewicz

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 Burtenshaw** called the meeting of the Senate Resources and Environment Committee (Committee) to order at 1:30 p.m.

RS 30120: **Relating to Wildlife. Charlotte Cunnington**, attorney with Givens Pursley and representing Yellowstone Bear World, explained the purpose of **RS 30120** was to clarify that animals living in a wildlife exhibit under a USDA Class C Exhibitors Licence were not generally living in a state of nature, and accordingly, were not included in the definition of "wildlife". By removing from the definition of wildlife, animals that were in a wildlife exhibit licensed and regulated by the United States Department of Agriculture, it removed them from the jurisdiction of Idaho Fish and Game. This also eliminated the duplicity of state and federal regulations of wildlife exhibits in Idaho.

MOTION: **Senator HARRIS** moved that **RS 30120** be sent to print. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

RS 30278C1: **Relating to Outfitters and Guides. Tim Frost**, Deputy Administrator, Division of Occupational Licences, explained **RS 30278C1** moved several well-established definitions from administrative rule to statute, as they applied to terms in statute. This legislation simplified the licensing process for guides and moved from the terminology of "big game seasons" to the proper terminology of "allocated tags". This legislation did not add any new requirements, registrations, or red tape, but did remove areas of confusion identified during the Zero-Based Regulation rulemaking process in 2022.

MOTION: **Senator Den Hartog** moved that **RS 30278C1** be sent to print. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

RS 30351: **Relating to Environmental Quality. Kristin Ryan**, Deputy Director, Idaho Department of Environmental Quality (IDEQ), explained **RS 30351** modified Idaho Code § 39-105, to add a new subsection (5)(c), which allowed the director of IDEQ to enter into voluntary funding agreements with public agencies, municipal organizations, and private parties. This legislation was intended to replace S 1014, which was heard in the Senate Health and Welfare Committee on January 31, 2023. After S 1014 was heard, stakeholders raised concerns regarding the possibility IDEQ would receive funding that was inconsistent with statutory and regulatory requirements. In the past, IDEQ had been asked to provide technical input, regulatory guidance, or review of complex projects outside of their routine work. This legislation would allow IDEQ greater flexibility in being reimbursed for their expenses associated with specific projects or

activities or to engage contractors without requiring the involvement of the federal government or other governmental entity.

MOTION: **Senator Schroeder** moved that **RS 30351** be sent to print. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Ed Schriever of Boise, Idaho to the Northwest Power and Conservation Council** for a term commencing February 17, 2023 and expiring on January 15, 2024. **Ed Schriever** explained he would serve three more days as Director of Idaho Fish and Game, and his appointment to the Northwest Power Conservation Council would not start until after his termination from State service. He told the Committee a bit about himself and his history of 39 years serving the state of Idaho. He said he was honored the Governor asked him to continue in public service and to serve the State's interests on the Northwest Power and Conservation Council.

S 1049 **ENDOWMENT LAND - Adds to existing law to provide for notice of restriction, regulation, and prohibition on endowment land and to provide for punishment and violations.** **Senator Harris** explained **S 1049** eliminated the current misdemeanor felony charges for minor damage to endowment lands, and replaced these with tiered punishments, with law enforcement officials able to issue a warning ticket for minor first offenses, a fine of \$250 for second violations, and higher penalties for third violations and those offences accompanied by physical harm, injury, or damage to personal property or natural resources. This legislation also required the Idaho Department of Lands (IDL) to post visible notices in the area where recreation use restrictions applied and to publish the restrictions on the agency website. This legislation preserved the option of treating cases of criminal trespass and allowed courts to mandate restitution for damages and to impose participation in boating, off-road, and/or snowmobile operator classes offered by the Idaho Department of Parks and Recreation. **Senator Harris** referred the Committee to his handout showing examples of damage to endowment lands (Attachment 1).

TESTIMONY: **David Claiborne**, Sawtooth Law Offices, representing the Idaho ATV Association and the Idaho Recreation Council, testified in support of **S 1049**. He believed this legislation was developed through a broad stakeholder engagement and desire to address a growing problem with misuse and abuse of our endowment lands. He referred to the handout showing examples of damage to endowment lands (Attachment 1) and stated the need to address squatters, cutting timber, injuring timber, pioneering of routes off trail, damaging rehabilitation areas under rehabilitation, and driving in wetlands. He believed this legislation struck an appropriate balance between education and enforcement.

DISCUSSION: **Senator Semmelroth** asked if there was currently enough staff available to enforce the violations section of this legislation. **Mr. Claiborne** explained IDL did not have any law enforcement personnel, but IDL staff were typically the ones that found the damage and they reported it to a local sheriff for enforcement. In response to another question from Senator Semmelroth, **Mr. Claiborne** stated he did not know the most common, or the top three types of violations, and he referred her to IDL. **Senator Guthrie** asked if this legislation caused a risk of giving too much latitude to an agency to unnecessarily close off public access and if it could have an impact on closing public access roads. **Mr. Claiborne** responded IDL already had the power to close off public access, and this legislation included processes for public involvement, such as public notices in the restricted area and published restrictions on the agency website, to keep the agency accountable. He added if IDL was to close a public road, they would have to involve the state or local agency that had authority over the road.

TESTIMONY: **Amber Worthington**, Deputy Director, Idaho Fish and Game, and **Payton Nunes**, Brocksome and Associates, representing Idaho Sportsmen, testified in support of **S 1049**. **Jonathan Oppenheimer**, Idaho Conservation League, did not testify in support or against this legislation, but asked if this legislation might add significant hurdles to a need for an emergency closure of State lands, such as in the case of mining issues or accidents. He stated he was interested in IDL's opinion on this question, but he otherwise supported the intent of this legislation.

In response to Mr. Oppenheimer, **Senator Harris** stated IDL had the ability to make rules regarding when to post, when to close, when to restrict, and when to involve local law enforcement at their discretion. **Senator Guthrie** asked if someone had access to an area for a particular purpose and IDL closed the area due to damage, would IDL delineate who was closed off to the area and who would continue to be allowed access. **Senator Harris** responded that would be up to the discretion and the judgment of IDL, but those that had a lease would continue to have access. **Senator Schroeder** referred to Section 1, which authorized the State Board of Land Commissioners to promulgate rules delineating the ways in which they would either close or restrict, regulate, or prohibit activities on endowment land, and he asked if this legislation allowed them to determine rules that might include some discretion by local IDL staff. **Senator Harris** confirmed this was his understanding.

MOTION: **Senator Schroeder** moved to send **S 1049** to the floor with a **do pass** recommendation. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

AGENCY UPDATE: **Idaho Department of Lands Wildland Fire Program Modernization**. **Dustin Miller**, Director, IDL, provided some background on IDL's responsibility in managing state endowment trust lands, including protecting revenue generating timberland from the damaging effects of wildfire. **Josh Harvey**, Fire Management Bureau Chief, IDL, provided a briefing of IDL's efforts to improve and modernize the Idaho Wildland Fire Program (Attachment 2). He provided some statistics for fire seasons in Idaho, including the increased length of the fire season, the increased number of fires escaping initial attack, the increased cost per fire, and the decreased number of fire starts. He reviewed trends in lightning versus human caused fires. He compared the 2015 and the 2021 fire seasons and reviewed the challenges facing fighting wildfires in Idaho. He reviewed IDL's effort to increase staff, to utilize technology such as mountaintop camera detection systems, and to expand their fire prevention program.

DISCUSSION: **Senator Schroeder** thanked IDL for saving his parent's house in the 2015 Clearwater Complex Fire. **Senator Taylor** asked if IDL supported any fire wise efforts, and if so, were these funded through state or federal money. **Mr. Harvey** responded that they did, and he believed this was funded primarily through federal grants. In response to another question from Senator Taylor, **Mr. Harvey** stated they were doing everything they could to work closer with their volunteer fire departments and their interagency partners to continue their initial attack agreements. **Senator Semmelroth** asked if IDL was doing anything to help future firefighters who would like to earn a college degree in Idaho while working during firefighting seasons. **Mr. Harvey** responded he went back to school and completed online work through the University of Idaho, where he took a number of courses in fire ecology. He added there were a number of fire programs throughout the state, but he thought he could address this issue with their new State Board of Land Commissioners member, Debbie Critchfield. **Senator Harris** asked if insurance companies were helping or working with IDL on fire prevention. **Mr. Harvey** responded that this was a new conversation in Idaho, but he believed if a home was built outside of a fire protection district, those homeowners struggled to obtain fire overage.

PRESENTATION: **Perimeter Solutions.** **Ron Raley**, Agency Liason, Perimeter Solutions, provided an overview of the merits of the pre-application of ground applied long term fire retardant (Attachment 3). He explained how it worked. He reviewed how it was qualified with the United States Forest Service. He spoke about Perimeter Solutions and their materials processing, manufacturing plants, service centers, and air tanker bases that were based in the state of Idaho. He provided examples of ongoing applications.

DISCUSSION: **Senator Taylor** asked if the application of ground applied long term fire retardant needed to be aerated in any form of application. **Mr. Raley** responded no aeration was necessary for it in any form. **Senator Taylor** asked if it rained what were the chances that the retardant would contaminate groundwater. **Mr. Raley** stated there was little chance. He referred to the 2011 environmental impact statement and the studies on watershed and soils, which stated when the retardant penetrates soil, it becomes available for plant uptake and will not translocate through the soil for more than eight feet.

MINUTES APPROVAL: **Senator Burtenshaw** stated the meeting had run out of time, so the Minutes of January 23, 2023 and the Minutes of January 25, 2023 would be considered in a future meeting.

ADJOURNED: There being no further business as this time, **Chairman Burtenshaw** adjourned the meeting at 2:52 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary