

MINUTES
HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: Monday, February 27, 2023

TIME: 1:30 P.M.

PLACE: Room EW40

MEMBERS: Chairman Mendive, Vice Chairman Shepherd, Representatives Boyle, Vander Woude, Blanksma, Manwaring, Yamamoto, Raybould, Durrant, Hill, Mickelsen, Nelsen, Pickett, Raymond, Tanner, Burns, Necochea, Galaviz

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheet will be retained in the committee secretary's office; following the end of session the sign-in sheet will be filed with the minutes in the Legislative Library.

Chairman Mendive called the meeting to order at 1:30 P.M.

MOTION: **Rep. Galaviz** made a motion to approve the minutes of February 23, 2023. **Motion carried by voice vote.**

S 1051: **Rep. Heather Scott**, District 2, presented the bill, which would clarify outfitters and guides liability provisions. Current law makes liability releases for outfitters and guides non-enforceable, which makes liability insurance rates for outfitters and guides either prohibitively expensive or outright unavailable. This bill would rectify that situation to make the law more straightforward and provide reasonable protections for outfitters and guides unless they are negligent or reckless - the same language used for ski resorts.

Rep. Scott introduced **Aaron Lieberman**, Executive Director of the Idaho Outfitters and Guides Association (IOGA), who supports the legislation. Mr. Lieberman noted the bill accomplishes three things: it makes liability releases enforceable, it clarifies outfitters and guides are protected unless they engage in reckless or intentional negligence, and it clarifies that outfitters and guides do not necessarily need to eliminate, alter, control, or lessen all risk. These changes would harmonize the law with other industries, and update the language in statute which was written in the early 1960s.

Leslie Frazee, representing the recreation insurance industry, testified **in support** of the bill. Increased litigation and higher verdicts have raised average insurance rates for outfitters and fewer companies insuring the outdoor industry. This bill would protect both outfitters and insurers.

Erik Weiseth, managing partner of Orange Torpedo Trips, a river outfitter, testified **in support** of the bill.

In response to a question from the committee, **Mr. Weiseth** gave a specific example of an instance in which a trip participant's family sued his company because of health problems caused by falling out of a boat into cold water even though a release was signed. He noted the incentive structure being geared toward settlement, the cost of which drives up prices for insurers.

Leah Corrigan, civil litigation attorney who represents outdoor industry companies, testified **in support** of the bill. As she practices law in Idaho and in neighboring states, she unfavorably compared Idaho law to the laws in surrounding states.

John Heimer, a retired river outfitter, testified **in support** of the bill.

Rep. Shepherd made comments in favor of the bill, noting the economic impact of the recreation industry in his district.

MOTION:

Rep. Burns made a motion to send **S 1051** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Scott** will sponsor the bill on the floor.

H 183:

Rep. Britt Raybould, District 34, described the legislation, which would re-establish the Big Payette Lake Water Quality Council in order to accept and make recommendations based on results from a University of Idaho shoreline erosion impact study due to be completed in 2023.

Rep. Raybould introduced **Roy Eiguren**, who helped draft the legislation, to answer a question about language that would state the legislature finds the council's creation to be "necessary." Mr. Eiguren explained the intent of the council is to receive the study from the University and to modify the existing plan that is already in place.

In response to a further question from the committee, **Mr. Eiguren** clarified the existing duties of the council, which are to study water quality, conduct public awareness programs, examine environmental conditions on and around the lake, amend the plan based on studies that come to it, and advise city, state, and federal planning authorities. He also clarified the funding for the council, which is sourced from private-sector individuals and organizations.

In response to a question from the committee about the necessity of the council to respond to a study that hasn't been released yet, **Mr. Eiguren** said the early indications from the study would indicate the council would need to be in existence to develop a plan, which would then be submitted to the legislature for approval.

In response to questions about the Legislature's role in the process, **Mr. Eiguren** noted the only way the council can be established is from statutory authority granted by the legislature. He argued it would be advisable to create the council now so it will be in place when the study is released; the supporters include the City of McCall, the Valley County Commission, and the University of Idaho. The study is to be completed by November 2023, and is being conducted by **Dr. Frank Wilhelm**, a nationally-recognized scientist at the University of Idaho. The legislation is different from bills from prior years that had also included Lake Cascade. As the council has not existed since 2005, the lead agency for implementing the plan is the Department of Environmental Quality (DEQ), with whom there is a Memorandum of Understanding. Mr. Eiguren believes the lack of updates for 20 years makes a new plan and a new council necessary.

Jeff Mousseau, a McCall resident, testified **in support** of the bill, and urged the necessity of clean lake water as the source of drinking water for McCall.

David Simmonds, a McCall resident and president of a Payette Lake-focused water quality nonprofit, testified **in support** of the bill. He noted the existing law does not address the current situation.

MOTION:

Rep. Blanksma made a motion to **HOLD H 183** subject to the call of the chair.

SUBSTITUTE MOTION:

Rep. Raymond made a motion to send **H 183** to the floor with a **DO PASS** recommendation.

ROLL CALL VOTE ON SUBSTITUTE MOTION:

A roll call vote was requested. **Substitute motion carried** by a vote of **10 AYE, 8 NAY**. **Voting in favor** of the motion: **Reps. Manwaring, Yamamoto, Raybould, Mickelsen, Nelsen, Pickett, Raymond, Burns, Necochea, Galaviz**. **Voting in opposition** to the motion: **Vice Chairman Shepherd, Reps. Boyle, Vander Woude, Blanksma, Durrant, Hill, Tanner, Chairman Mendive**. **Rep. Raybould** will sponsor the bill on the floor.

S 1049:

Rep. Jerald Raymond, District 31, presented the bill, which would provide for notice of restrictions on Endowment Lands. Endowment Lands are neither wholly public nor wholly private, established to fund specific beneficiaries like public schools, and the mechanisms for prosecution of bad actors on state endowment lands are limited, a situation this bill seeks to address. He noted this bill is being brought by the sportsmen, not the Department of Lands, and there are no additional FTEs or law enforcement powers being granted. He noted the wide support across many industries the bill has received.

In response to a question from the committee concerning closure of Endowment Land, **Rep. Raymond** noted such restrictions would be an absolute last resort to close lands that are being abused. **Rep. Tanner** stated his concerns about such closures punishing all users of lands, instead of focusing on bad actors. **Rep. Raymond** noted Endowment Lands are different than public lands, and the state has a constitutional requirement to manage them.

Scott Phillips, Policy and Communications Chief at the Idaho Department of Lands (IDL), noted IDL has the authority to close Endowment Land when necessary, though it is rarely used. He said the costs for remediating damage to Endowment Lands either comes out of the funding the land would otherwise send to its intended beneficiary, or from sportsmen's fees.

In response to a question from the committee, **Mr. Phillips** said this bill is designed to create a penalty structure short of closure to deter bad actors, and there is nothing in the bill giving the Department new authority to close land. The reason for stronger language was to give options other than the current tool of criminal trespass, which local law enforcement are often unwilling to prosecute.

In response to a question from the committee, **Rep. Raymond** confirmed the bill would give the state the authority to issue citations or fines for leaving trash or illegal camping without having to resort to closure of the land.

Tricia Hebdon, Assistant Wildlife Bureau Chief at the Idaho Department of Fish and Game (IDFG), testified **in support** of the bill.

MOTION:

Rep. Mickelsen made a motion to send **S 1049** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote.** **Rep. Raymond** will sponsor the bill on the floor.

Chairman Mendive turned the gavel over to **Vice Chairman Shepherd** for consideration of the administrative rule.

**DOCKET NO.
13-0102-2201:**

Tricia Hebdon, Assistant Wildlife Bureau Chief at IDFG, said shooting range funding comes from Pittman-Robertson, and this rule would allow IDFG to supplement funding for shooting ranges they own. She said the new funds would be necessary to allow for additional hours of operation for those costs. Pittman-Robertson funds fluctuate based on the sale of ammunition, and these funds would allow for more reliable operation.

In response to a question from the committee, **Ms. Hebdon** said Pittman-Robertson funds are based on grants and are somewhat restricted. She said the consequence of not having these additional funds would likely be reduced operating hours for the ranges.

In response to a question from the committee, **Ms. Hebdon** said the department had not provided a summary of revenue received from sources other than Pittman-Robertson.

Vice Chairman Shepherd asked members of the committee what further information they would like to see. **Rep. Boyle** stated she would like to see a breakdown of total Pittman-Robertson dollars, funding from NRA dinners and other similar organizations, and contributions from local organizations.

MOTION: **Rep. Raybould** made a motion to hold **Docket No. 13-0102-2201** subject to the call of the chair. **Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 2:59 P.M.

Representative Mendive
Chair

Cameron Douglas
Secretary