

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 15, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
INTRODUCTION:	Introduction of Page Zackary Holt	Senator Burtenshaw
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Gubernatorial Appointment of Mathew Weaver of Boise, Idaho to Director of the Idaho Department of Water Resources for a term commencing August 10, 2023 and serving at the pleasure of the Governor	Mathew Weaver, Director, Idaho Department of Water Resources

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw

Vice Chairman Adams

Sen Guthrie

Sen Den Hartog

Sen Harris

Sen Okuniewicz

Sen Schroeder

Sen Semmelroth

Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson

Room: WW37

Phone: 332-1323

Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 15, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senators Okuniewicz and Schroeder

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 1:32 p.m.

INTRODUCTION: **Chairman Burtenshaw** introduced Senate page, Zackary Holt. **Zackary** told the Committee about himself and some of his plans for the future.

INTRODUCTION: **Chairman Burtenshaw** introduced Darl Bruner, who was the substitute for Senator Adams. **Mr. Bruner** shared with the Committee some of his background, including that he worked at Northwest Nazarene University and served on the Nampa City Council.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Mathew Weaver of Boise, Idaho to Director of the Idaho Department of Water Resources** for a term commencing August 10, 2023 and serving at the pleasure of the Governor. **Mr. Weaver** presented before the Committee and shared his background and vision for the Idaho Department of Water Resources (IDWR). He shared that he has a bachelors degree in civil engineering with an emphasis in water resources, and a graduate degree in hydrology. He stated he worked at IDWR for 16 years with ten years as Deputy Director. He reviewed his appointments for deputy directors and some of his priorities for IDWR, including addressing staffing, completing adjudication for water basins throughout Idaho, supply enhancement activities, and water infrastructure projects.

DISCUSSION: **Senator Den Hartog** shared concerns about local water use planning in her District and asked how IDWR could improve their connection to local water use planning. **Mr. Weaver** responded with some examples of IDWR's efforts around the Treasure Valley to bring together individual water users and planning and zoning committees to answer questions and address issues. He also shared that IDWR developed a document to clearly outline the duties and authorities of IDWR, as opposed to other agencies at the local, planning, and city levels, or federal agencies. **Senator Guthrie** asked how IDWR could lead negotiations related to water so that they were completed in a more timely fashion. **Mr. Weaver** responded that as Director, he intended to be present in negotiations between water users and involved in enforcing the legal standards and statutory obligations of IDWR.

ADJOURNED: There being no further business as this time, **Chairman Burtenshaw** adjourned the meeting at 1:59 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 17, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT VOTE:	Committee Vote on the Gubernatorial Appointment of Mathew Weaver of Boise, Idaho to Director of the Idaho Department of Water Resources	
<u>13-0104-2301</u>	Rules Governing Licensing - Temporary and Proposed Rule	Amber Worthington, Deputy Director, Idaho Department of Fish and Game
<u>13-0106-2301</u>	Rules Governing Classification and Protection of Wildlife (ZBR Chapter Rewrite) - Proposed Rule	Amber Worthington
<u>13-0108-2301</u>	Rules Governing Taking of Big Game Animals - Proposed Rule	Amber Worthington
<u>13-0111-2301</u>	Rules Governing Fish (ZBR Chapter Rewrite) - Proposed Rule	Amber Worthington
<u>13-0112-2301</u>	Rules Governing Commercial Fishing (ZBR Chapter Repeal) - Proposed Rule	Amber Worthington
<u>13-0115-2301</u>	Rules Governing the Use of Dogs (ZBR Chapter Rewrite) - Proposed Rule	Amber Worthington

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw

Vice Chairman Adams

Sen Guthrie

Sen Den Hartog

Sen Harris

Sen Okuniewicz

Sen Schroeder

Sen Semmelroth

Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson

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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 17, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 1:31 p.m.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Schroeder** moved to send the Gubernatorial appointment of Mathew Weaver of Boise, Idaho as Director of the Idaho Department of Water Resources to the floor with recommendation that he be confirmed by the Senate. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0104-2301 **Rules Governing Licensing - Temporary and Proposed Rule. Amber Worthington**, Deputy Director, Idaho Department of Fish and Game (IDFG) presented all rule changes for IDFG. She referred during her presentations to the 2024 Resources & Environment Committee Pending Rules Review Book on the Idaho State Legislature website. She explained this Docket supported the implementation of changes to IDAPA 13.01.04 Section 506 made in the 2023 legislative session. This Docket removed the limit for outfitter tag set-aside, which then allowed flexibility for the Idaho Fish and Game Commission (IFGC) to meet the basis for outfitter tag allocation as outlined in 2023.

DISCUSSION: In response to a question from Senator Burtenshaw, **Ms. Worthington** explained that the noted first-come, first-serve basis in Section 500.01 applied to regular hunters, or over-the-counter sales for nonresidents, not outfitters.

MOTION: **Senator Harris** moved to approve **Docket No. 13-0104-2301**. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 13-0106-2301 **Rules Governing Classification and Protection of Wildlife (ZBR Chapter Rewrite) - Proposed Rule. Ms. Worthington** explained that changes to this chapter primarily addressed common and scientific names. Most scientific names were removed, with the exception of the genus and species that must be identified due to season setting complications or specificities in what was allowable to hunt or harvest. Scientific names for native salmon and trout species for benefits of Endangered Species Act regulatory mechanisms were left intact. Changes also updated common and scientific names to follow recognized taxonomic and nomenclatural authorities in North America and created a new section specific to anadromous game fish.

MOTION: **Senator Den Hartog** moved to approve **Docket No. 13-0106-2301**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
13-0108-2301**

Rules Governing Taking of Big Game Animals - Proposed Rule. Ms. Worthington explained changes to this Docket related to the muzzleloader only season. As a result of concerns brought by sportsmen around the availability of projectiles, IDFG engaged in negotiated rulemaking and provided public comment opportunities. Changes included removing the words non-jacketed, changing lead or lead alloy to metal or metal alloy, and providing allowance for the use of pressure bases and polymer tips.

DISCUSSION:

Senator Okuniewicz stated that it had come to his attention that there were some who believed the changes in this Docket needed more research.

MOTION:

Senator Okuniewicz moved that **Docket No. 13-0108-2301** be held subject to call of the Chair. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
13-0111-2301**

Rules Governing Fish (ZBR Chapter Rewrite) - Proposed Rule. Ms. Worthington explained IDFG took the opportunity to restructure, update, and clarify rules content in this chapter, which underwent major modifications, relocation of content throughout the chapter, and streamlining. Changes included allowances around the live transport of crayfish, which made this legal as long as they were not invasive species, an electronic tag option for salmon and steelhead fishing, and integrating Section 1301.12, which was the rules governing commercial fishing, into this Section. **Ms. Worthington** shared that the only changes of note to Section 1301.12 prior to their consolidation updated the rule to reflect current practices, such as revising the license process from permit to application, and removing fish species with no commercial opportunities. Most other changes were related to cleanup, reducing redundancy, and clarifying language that was confusing to anglers.

DISCUSSION:

Senator Okuniewicz asked for more information on the electronic tag concept and if this was something IDFG intended to expand. **Ms. Worthington** responded that the electronic tag concept was under development with the intent to release this option for salmon and steelhead fishing on April 1, 2024. She added that IDFG intended to add other tagging options if they could develop ways to make them work. In response to a question from Senator Schroeder, **Ms. Worthington** confirmed that **Docket No. 13-0112-2301** was deleted and incorporated into this Docket. As a follow up, **Senator Schroeder** stated that a vote on **Docket No. 13-0111-2301** should be done together with a vote on **Docket No. 13-0112-2301**. **Chairman Burtenshaw** asked for an explanation of Commercial Gear Tags, noted on page 47. **Joe Zacha**, State Fisheries Manager, Idaho Department of Fish and Game, responded that this related to commercial fishing licenses and enforcement and that commercial fishermen had to affix their commercial tags to their gear, such as large nets, seines, or commercial crayfish traps.

**DOCKET NO.
13-0112-2301**

Rules Governing Commercial Fishing (ZBR Chapter Repeal) - Proposed Rule. Ms. Worthington explained this Section was proposed for repeal as it was incorporated into the prior Section.

MOTION:

Senator Schroeder moved to approve **Docket No. 13-0111-2301** and **Docket No. 13-0112-2301**. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
13-0115-2301**

Rules Governing the Use of Dogs (ZBR Chapter Rewrite) - Proposed Rule Ms. Worthington explained changes to this Docket focused on updating language and making clarifications, such as changing the words "a dog" or "dogs" to "one or more dogs", revising the words "take" or "taking" to "hunt" or "hunting", and adding language to clarify requirements for outfitters and the need for a Hound Hunter Permit. Language related to nonresident permit exemptions was modified or removed to be consistent with IFGC, and the section related to the use of captive propagated game birds was restructured to ensure consistency and eliminate redundancy.

MOTION:

Senator Harris moved to approve **Docket No. 13-0115-2301**. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business as this time, **Chairman Burtenshaw** adjourned the meeting at 1:55 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 22, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>RS 30928C1</u>	Relating to Grazing	Senator Harris
<u>26-0110-2301</u>	Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule	Susan Buxton, Director, Idaho Department of Recreation Seth Hobbs, Reservation and Registration Program Manager, Idaho Department of Recreation
<u>26-0120-2301</u>	Rules Governing the Administration of Park and Recreation Areas and Facilities (Fee Rule) - Proposed Rule	Susan Buxton Seth Hobbs
<u>26-0134-2201</u>	Idaho Protection Against Invasive Species Sticker Rules (ZBR Chapter Repeal) - Temporary and Proposed Rule	Susan Buxton Seth Hobbs

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 22, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 30928C1 **Relating to Grazing. Senator Harris** explained **RS 30928C1** allowed certain State grazing leaseholders to apply to the Idaho Department of Lands to convert their grazing lease into a grazing permit, which would allow leaseholders who were good stewards of the land the ability to renew their grazing rights without having to reapply and rebid.

MOTION: **Senator Den Hartog** moved that **RS 30928C1** be sent to print. **Senator Schroeder** seconded the motion.

DISCUSSION: **Senator Guthrie** asked for the reason this legislation was retroactive to 2019. **Senator Harris** responded that there were certain individuals that went through a federal land exchange in 2019 and this legislation would apply to them retroactively.

VOICE VOTE: The motion to send **RS 30928C1** to print carried by **voice vote**.

PASSED THE GAVEL: Chairman Burtenshaw then passed the gavel to Vice Chairman Adams.

Vice Chairman Adams stated he moved the hearing for **Docket No. 26-0134-2201** to be the first Docket before the Committee, due to the need for discussion regarding changes to **Docket No. 26-0110-2301** and **Docket No. 26-0120-2301**.

DOCKET NO. 26-0134-2201 **Idaho Protection Against Invasive Species Sticker Rules (ZBR Chapter Repeal) - Temporary and Proposed Rule. Susan Buxton**, Director of the Idaho Department of Parks and Recreation (IDPR), stated this Docket rescinded IDAPA 26.01.34, the Idaho Protection Against Invasive Species Sticker Rule. All rules in this Docket were moved to Idaho Statute, Title 67, Chapter 70 by the Idaho Legislature in the 2023 legislative session.

MOTION: **Senator Okuniewicz** moved to approve **Docket No. 26-0134-2201**. **Senator Semmelroth** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
26-0110-2301**

Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. **Susan Buxton**, Director, IDPR explained that this Docket established the procedures for obtaining a permit to divert and use unappropriated public waters or a permit for a reallocation of trust water within the Swan Falls Trust Water Area. It governed the filing and processing of applications for permits and established the collection of fees. The proposed changes established the ability of the Idaho Parks and Recreation Board (IPRB) to set fee amounts on a case by case basis based on fair market value and cost recovery. She stated she received comments that the revised process for setting fees was not clearly defined and therefore, she suggested **Docket No. 26-0110-2301** needed further work and should be revised and presented in next year's legislative session.

DISCUSSION:

Senator Den Hartog asked where in the 2024 Legislative Rules Review Book she could find fee increases, what were the original fees, and what were the increased fees. **Chairman Burtenshaw** responded that fees for this Docket were listed on page 182. **Senator Den Hartog** then noted one fee increased from \$100 to \$300, and one from \$25 to \$50. **Ms. Buxton** added that there was also a change in cost per acre noted on the same page.

MOTION:

Chairman Burtenshaw moved to table **Docket No. 26-0110-2301**. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
26-0120-2301**

Rules Governing the Administration of Park and Recreation Areas and Facilities (Fee Rule) - Proposed Rule. **Susan Buxton**, Director, IDPR, stated the proposed changes updated definitions and standards; removed redundant or unnecessary sections; updated the check-out time for facilities; added the ability for day, month, or season admission to the admission fee; and moved the fee schedule for winter access passes to be managed by the admission fee. Changes to this Docket also included increased fee caps on items that were at or near the fee cap. **Ms. Buxton** elaborated on the need for some flexibility in setting fees. She shared that she received feedback showing there was a need for more clarity on how IDPR determined fee changes. **Brian Beckley**, Chairman, IPRB, presented to share how important it was that IPRB balanced fees with financing maintenance and operations for State parks.

DISCUSSION:

Senator Guthrie asked how often fees could be changed. **Mr. Beckley** responded that IPRB's intent was to make changes on a very short basis, and he provided an example of decreasing fees in park off seasons to encourage people to stay longer. In response to a question from Senator Okuniewicz, **Mr. Beckley** stated the IPRB considered imposing higher rates for non-residents and he emphasized that providing for Idaho residents was their priority. **Vice Chairman Adams** asked when IDPR last reduced fees. **Ms. Buxton** responded that IDPR expected to use new technology to implement variable pricing that could lower fees to encourage increased attendance during off seasons.

Senator Den Hartog asked Josh Scholer, Bureau Chief, Regulatory and Legislative Affairs, Idaho Division of Financial Management, if he would provide direction regarding the motion to table that was made on **Docket No. 26-0110-2301**. **Mr. Scholer** clarified the options available to the Committee to accept or reject a Docket, either in whole or in part. He stated the Committee could move to hold the Docket for any number of days or weeks subject to the call of the Chair. He stated if only the fees in this Docket concerned the Committee, the proper motion to make would be to approve **Docket No. 26-0120-2301** with the exception of the specific sections that included fees and were unacceptable.

MOTION:

Senator Harris moved to hold **Docket No. 26-0120-2301** subject to call of the Chair. **Senator Schroeder** seconded the motion.

DISCUSSION: **Senator Guthrie** requested clarification that this Docket would return to the Committee for another motion including specific sections to be rejected. **Vice Chairman Adams** confirmed that it would.

VOICE VOTE: The motion to hold **Docket No. 26-0120-2301** subject to call of the Chair carried by **voice vote**.

MOTION: **Senator Harris** moved to reconsider the Committee vote on **Docket No. 26-0110-2301**. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Harris** moved to hold **Docket No. 26-0110-2301** subject to call of the Chair. **Chairman Burtenshaw** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

ADJOURNED: There being no further business as this time, **Chairman Burtenshaw** adjourned the meeting at 2:06 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

AMENDED AGENDA #2
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 24, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Minutes of January 15, 2024	Senator Guthrie Senator Semmelroth
MINUTES APPROVAL:	Minutes of January 17, 2024	Senator Den Hartog Senator Taylor
<u>S 1231</u>	FISH AND GAME - Amends existing law to provide that certain persons shall not be eligible to apply for any fishing, hunting, or trapping licenses, tags, or permits.	Senator Foreman
GUBERNATORIAL REAPPOINTMENT:	Committee Consideration of the Gubernatorial Reappointment of Brad Compton of Meridian, Idaho to Idaho Outfitter and Guides Licensing Board for a term commencing May 11, 2023 and expiring June 1, 2026	Brad Compton
GUBERNATORIAL REAPPOINTMENT:	Committee Consideration of the Gubernatorial Reappointment of Don Ebert of Weippe, Idaho to the Idaho Fish and Game Commission for a term commencing June 30, 2023 and expiring June 30, 2027	Don Ebert
<u>24-3501-2301</u>	Rules of the Outfitters and Guides Licensing Board - Proposed Rule	John Price, Occupations Bureau Chief, Division of Occupational and Professional Licences

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw	Sen Okuniewicz
Vice Chairman Bruner (Adams)	Sen Schroeder
Sen Guthrie	Sen Semmelroth
Sen Den Hartog	Sen Taylor
Sen Harris	

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 24, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the Minutes of January 15, 2024. **Vice Chairman Adams** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Den Hartog** moved to approve the Minutes of January 17, 2024. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

S 1231 **FISH AND GAME - Amends existing law to provide that certain persons shall not be eligible to apply for any fishing, hunting, or trapping licenses, tags, or permits.** **Senator Foreman** explained this legislation amended Idaho Code § 36-1402 to add that any person whose privileges had not been suspended, and with outstanding fines from violations under this Title, was ineligible to apply for any hunting, fishing, or trapping license tag or permit until the fines were paid.

DISCUSSION: **Senator Schroeder** asked for clarification of the term "outstanding fines" and how this legislation would allow for violators with payment agreements or fines that were not yet due. **Senator Foreman** responded that the Idaho Department of Fish and Game (IDFG) worked with violators who owed fines as long as they made a good faith effort to pay. He stated he had additional legislation to address the difficulties IDFG had in collecting fine payments. **Senator Schroeder** stated the person with the information about the timeliness or promptness of fine payments was the Clerk of the Court and not IDFG, and asked if this was clarified in the additional legislation. **Senator Foreman** responded that between this legislation and the additional legislation the ability to collect and track fees would be much more workable.

Senator Guthrie asked how this legislation would apply to someone with a lifetime hunting or fishing license. **Senator Foreman** responded that for certain felonies and flagrant violations there were mandatory penalties, which included lifetime revocation. **Senator Guthrie** confirmed that people who committed misdemeanors would not be subject to any loss of their lifetime license, and asked for the reason for the change in wording from "fined" to "punished by a fine". **Senator Foreman** explained this change was made by the Legislative Services Office for clarity and not for a difference in meaning.

Chairman Burtenshaw asked if someone at IDFG could clarify how unpaid fines were reported. **Ellary TuckerWilliams**, Legislative and Community Engagement Coordinator, IDFG, explained that IDFG was dependent on the 44

Idaho counties to report when fines were paid, with some being better reporters than others. **Senator Taylor** asked how prevalent was the nonpayment of fees. **Ms. TuckerWilliams** responded that IDFG had about \$230,000 outstanding in restitution from about 100 to 120 people.

Senator Schroeder stated clarification regarding outstanding fines versus restitution may be needed in this legislation, and asked if a county routinely communicated with IDFG regarding the status of fine payments, but did not routinely communicate about restitution. **Ms. TuckerWilliams** responded yes, that reporting by counties regarding collected restitution was not a straightforward or consistent process.

TESTIMONY: **Jonathan Oppenheimer**, Government Relations Director, Idaho Conservation League, testified in favor of **S 1231**. He offered some suggestions for amendment, including clarification on how existing licence holders would be affected and increasing restitution amounts.

In response to comments by Mr. Oppenheimer, **Senator Foreman** stated he had additional legislation pending that would amend Idaho Code § 36-1404 to address increasing restitution amounts.

MOTION: **Senator Schroeder** moved to send **S 1231** to the 14th Order of Business for possible amendment. **Senator Guthrie** seconded the motion.

DISCUSSION: **Senator Den Hartog** asked Senator Schroeder what possible amendments to this legislation he would consider. **Senator Schroeder** stated clarifying the triggering event for outstanding fines, clarifying the difference between fines and restitution as a triggering event, and combining these updates with the additional legislation noted by Senator Foreman related to collecting restitution. **Chairman Burtenshaw** asked Senator Schroeder if he would work with Senator Foreman to amend **S 1231**. **Senator Schroeder** confirmed that he would.

VOICE VOTE: The motion to send **S 1231** to the 14th Order of Business for possible amendment carried by **voice vote**.

IDAHO FISH AND GAME REAPPOINTMENT: **Committee Consideration of the Idaho Fish and Game Reappointment of Brad Compton of Meridian, Idaho to Idaho Outfitters and Guides Licensing Board** for a term commencing May 11, 2023 and expiring June 1, 2026. **Mr. Compton** told the Committee about himself, his background, and why he wanted to serve on the Idaho Outfitters and Guides Licensing Board (Board). He shared he holds a bachelor's degree in biology and a master's degree in fish and wildlife management from Montana State University. He moved to Idaho in 1987 when he began working for IDFG, where he worked in multiple positions throughout Idaho for 33 years. He was elected to chairman of the Board in January 2021.

DISCUSSION: **Senator Harris** asked if Mr. Compton saw any progress in reducing the conflicts between the outfitters and non outfitters. **Mr. Compton** replied that they were seeing progress due to long standing efforts in the relationship between the Board, the Idaho Fish and Game Commission (Commission), and IDFG.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Don Ebert of Weippe, Idaho to the Idaho Fish and Game Commission** for a term commencing June 30, 2023 and expiring June 30, 2027. **Mr. Ebert** told the Committee about himself, his background, and why he wanted to serve on the Commission. He shared some of his history in public service, including serving as a county commissioner, on a city council, and on the Clearwater Basin Collaborative.

**DOCKET NO.
24-3501-2301**

Rules of the Outfitters and Guides Licensing Board - Proposed Rule. John Price, Bureau Chief for the Occupational Licensing Bureau of the Division of Occupational and Professional Licences (DOPL), and Executive Officer, Outfitters and Guides Licensing Board (OGLB) referred to the 2024 Senate Resources and Environment Committee Pending Rules Review Book posted on the Idaho Legislature website. He stated DOPL and OGLB completed a full chapter rules review which was approved by the Idaho Legislature in 2023. To ensure public concerns continue to be addressed, this year four proposed rules were modified as follows:

- Page 162: Rule 257.09(c), language was added to address the issue of double counting some allocated tags.
- Page 163: Rule 259.01, Clark Fork River, a second section was created to allow for two additional outfitters from Memorial Day through September 30.
- Page 165: Rule 259.01, Priest River, reduced the number of outfitters from five to two.
- Page 172: Rule 259.04, the number of outfitters on Hayden Lake increased from one to two and were moved to be covered under Other Lakes and Reservoirs in subsection .05.

DISCUSSION:

Senator Okuniewicz asked for clarification on the line out of Hayden Lake on the subsection .04 table on page 172. **Mr. Price** responded that by removing this from the table, it would fall under the next subsection .05, which included all remaining lakes and reservoirs. **Senator Okuniewicz** asked if they received any negative feedback on these changes. **Mr. Price** responded that the dates related to the second section on the Clark Fork were changed as a result of comments during Fish and Game meetings. **Vice Chairman Adams** asked where Bear Paw Point was, as noted in the change to the Clark Fork River section made on page 163. **Mr. Price** did not know, but stated he would get back to Senator Adams with the answer.

MOTION:

Senator Harris moved to approve **Docket No. 24-3501-2301**. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business as this time, **Chairman Burtenshaw** adjourned the meeting at 2:15 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, January 29, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>RS 30973C1</u>	Relating to Navigational Encroachments	Senator Herndon
<u>37-0308-2301</u>	Water Appropriation Rules (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule	Angela Hansen, Water Allocations Bureau Chief, Idaho Department of Water Resources
GUBERNATORIAL REAPPOINTMENT VOTE:	Committee Vote on the Gubernatorial Reappointment of Brad Compton of Meridian, Idaho to Idaho Outfitter and Guides Licensing Board	
GUBERNATORIAL REAPPOINTMENT VOTE:	Committee Vote on the Gubernatorial Reappointment of Don Ebert of Weippe, Idaho to the Idaho Fish and Game Commission	
GUBERNATORIAL REAPPOINTMENT:	Committee Consideration of the Gubernatorial Reappointment of Edward Schriever of Boise, Idaho to Northwest Power and Conservation Council for a term commencing January 15, 2024 and expiring January 15, 2027	Edward Schriever
PRESENTATION:	Idaho Department of Water Resources Rulemaking Update	Erik Boe, Ground Water Protection Section Manager, Idaho Department of Water Resources
PRESENTATION:	Idaho Rangeland Resources Commission	Gretchen Hyde, Director, Idaho Rangeland Resources Commission

***Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)***

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, January 29, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 30973C1 **Relating to Navigational Encroachments. Senator Herndon** stated this legislation added a clarifying definition to Idaho Code § 58-1312 concerning the 1974 Lake Protection Act. **Senator Herndon** explained the 1974 Lake Protection Act was amended by the legislature in 2006 to allow owners to repair and maintain encroachments on the lake bed that existed prior to 1974 without having to obtain a new permit and pay for the permitting and application process, however, the definition of modified was not included in the 2006 amendment. **RS 30973C1** added the definition of the phrase "has not been modified" to state that the overall footprint of the encroachment on the lake bed had not changed in dimension, orientation, height or location. He cited the minutes from the 2006 House Resources and Conservation Committee and Senate Resources and Environment meetings which in his opinion made clear the intention of the legislature in 2006. (Attachment 1)

DISCUSSION: In response to a question from Senator Harris, **Senator Herndon** stated he did not know if there was a reason why this definition was not included in the 2006 legislation.

MOTION: **Senator Schroeder** moved that **RS 30973C1** be sent to print. **Vice Chairman Adams** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

DOCKET NO. 37-0308-2301 **Water Appropriation Rules (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. Angela Hansen**, Water Allocations Bureau Chief, Idaho Department of Water Resources (IDWR), referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website. She noted the notice of rulemaking started on page 203, the clean version of the rule text was on pages 205 through 223, and a version showing changes to the previous rule was on pages 224 through 254. She explained the Water Appropriation Rules set the procedures for obtaining a permit to divert and use unappropriated public waters or a permit for a reallocation of trust water within the Swan Falls Trust Water Area, and govern the filing and processing of applications for permit to appropriate water. This rule had not changed significantly since 1986.

Ms. Hansen stated there was moderate public participation in commenting

on changes to this rule, with the majority of participation by those in the legal profession to clarify legal principles, such as how local public interests should be evaluated. Some of the significant changes were:

- updating the language related to the Swan Falls Trust water area based on relevant legal decisions that occurred since 1986
- changes to the application requirements
- removal of obsolete procedures for reprocessing permits
- updating and streamlining processing procedures
- the addition of review standards for statutory criteria added since 1986
- streamlining and clarifying moratorium procedures
- removing static map appendices that were no longer needed within the rules

IDWR did not modify any fees in this rule.

DISCUSSION: **Senator Harris** asked about the definition of "water right held in trust" in section 010.21 on page 226 and if there was any opposition to the changes in this section. **Ms. Hanson** responded that those particular water rights were the water rights held by the State in trust and were litigated during the Snake River Basin adjudication, so they were not a source of opposition during the rulemaking.

MOTION: **Senator Harris** moved to approve **Docket No. 37-0308-2301**. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

FISH AND GAME REAPPOINTMENT VOTE: **Senator Guthrie** moved to send the Idaho Fish and Game Reappointment of Brad Compton to the Idaho Outfitters and Guides Licensing Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Okuniewicz** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE: **Senator Harris** moved to send the Gubernatorial Reappointment of Don Ebert to the Idaho Fish and Game Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Edward Schriever of Boise, Idaho to the Northwest Power and Conservation Council** for a term commencing January 15, 2024 and expiring January 15, 2027. **Mr. Schriever** provided some history on the establishment of the Council and reviewed the Council's responsibilities and expected future challenges. The Council was responsible for developing a power plan to ensure the northwest region had adequate, reliable, and affordable electricity and for developing a fish and wildlife program to mitigate the effects of the region's hydropower development and operation. This power plan directed the operations of Bonneville Power, which generated power from the federal hydroelectric dams in the Columbia Basin and was the single largest provider of electrical energy in the region.

DISCUSSION: **Senator Okuniewicz** asked how the Council might increase capacity and what Mr. Schriever's position was on the breaching of dams. **Mr. Schriever** explained that Bonneville Power was not the only electricity supplier in the region, but was the only one directed by the Council. He added that increased capacity for Bonneville Power would likely come from other sources than hydropower, such as wind, solar, hydrogen, and nuclear. He stated he was on the Council to represent Idaho's policy positions, including that Idaho supported the continued operations of the four lower Snake River dams. **Senator Okuniewicz** asked how much input or authority Mr. Schriever had in keeping power generated in Idaho in Idaho, and available at a reasonable cost. **Mr. Schriever** reviewed the limited authority of the Council and explained that the federal hydropower system delivered more energy from outside of Idaho into Idaho than vice versa, so Idaho was a net importer of hydropower generated at these federal facilities.

PASSED THE GAVEL: Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

PRESENTATION: **Idaho Department of Water Resources Rulemaking Update Erik Boe**, Ground Water Protection Section Manager, IDWR, presented a review of IDWR's rulemaking efforts in 2023 and projected efforts for 2024. He explained they were scheduled to negotiate two rules in 2023, the water appropriation rules presented earlier in this meeting, and Rule 37-0303, the rules and minimum standards for the construction and use of injection wells. The rulemaking process for Rule 37-0303 was extended to 2024 due to concerns regarding injecting recycled wastewater into Idaho's drinking water aquifers. IDWR was also beginning negotiated rulemaking for three additional chapters, Rule 37-0301, adjudication rules, Rule 37-0302, beneficial use examination rules, and Rule 37-0309, well construction standard rules.

PRESENTATION: **Idaho Rangeland Resources Commission Gretchen Hyde**, Director, Idaho Rangeland Resources Commission (IRRC) provided an overview of the background, funding, goals, and activities of the IRRC over the previous year. (Attachment 2)

DISCUSSION: In response to a question from Senator Adams, **Ms. Hyde** clarified that sales of IRRC's licence plates totaled \$80,000 for one year and sales had been growing consistently over the last few years. **Senator Adams** asked if IRRC's informational activities to address conflicts between rangeland users had resolved the issue. **Ms. Hyde** stated they had not. She added that conflicts impacted livestock producers the most and she would like to see more collaboration and more funding going towards educating new rangeland users. In response to a question from Senator Adams, **Ms. Hyde** stated the target audience for IRRC's Four Seasons with Sage materials was fifth graders.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

HOUSE RESOURCES & CONSERVATION COMMITTEE

DATE: February 15, 2006

TIME: 1:30 p.m.

PLACE: Room 412

MEMBERS: Chairman Stevenson, Vice Chairman Wood, Representatives Field(23), Bell, Barraclough, Denney, Barrett, Moyle, Eskridge, Raybould, Roberts, Bedke, Andrus, Shepherd(8), Brackett, Sayler, Jaquet, Mitchell

ABSENT/ Rep. Bedke

EXCUSED:

GUESTS: George Bacon, Operations Chief South, Idaho Department of Lands (IDL); Mike Murphy, Head, Navigable Waters Program, IDL

See sign-in sheet for other guests.

CALL TO ORDER: Chairman Stevenson called the meeting to order at 1:35 p.m. The secretary took a silent role call.

MINUTES: A motion was made by Rep. Sayler to approve the minutes of January 7 and January 9, 2006 as written. The motion passed by voice vote.

January 7, 2006
January 9, 2006

H641: Rep. Tom Loertscher, District 31, sponsor, has asked that H641 not be heard in Committee today.

H524: George Bacon, Operations Chief South, Idaho Department of Lands (IDL), presented H524 relating to the Lake Protection Act (LPA). Currently the LPA does not provide a permitting process for owners of encroachments built prior to 1974 who did not meet the deadline established in Section 58-1312. H524 makes an allowance for owners of unmodified navigational or nonnavigational encroachments constructed on or before December 31, 1974. Substantive documentation that the encroachment was constructed on or before that date must be made in order to receive an encroachment permit without the requirement of application or publication fees.

QUESTIONS/COMMENTS: Rep. Moyle asked if the IDL's permitting process included private lakes. Mr. Bacon said IDL's jurisdiction is defined in a different Code section; but that private or navigable lakes under IDL jurisdiction are better defined in another bill today.

Rep. Roberts asked if a dock, pier, or improvement could be maintained

Rep. Eskridge asked why IDL wouldn't have jurisdiction over the ground at the bottom of Bureau projects as it does over the ground at the bottom of Corp projects. Mr. Bacon said the test for jurisdiction is whether the body of water is navigable at the time of statehood. Any body of water created since then is not under IDL jurisdiction.

Rep. Moyle asked if IDL would have jurisdiction over the Payette River but not over drainage district #2 in Meridian, ID. Mr. Bacon said that is correct. However, IDL does not have jurisdiction over all reaches of the Payette River. The test for jurisdiction requires that a body of water was navigable at the time of statehood.

Rep. Roberts said the situation is more complicated than it first appears, because there is a natural high water mark and, in some cases, an artificial high water mark where structures have been built for water storage. He asked who has jurisdiction over the land difference between the historic high water mark and the artificial high water mark. Mr. Murphy said IDL regulates the encroachment. IDL only negotiates leases to the "ordinary" high water mark, as opposed to the artificial high water mark. He said each site is different. Court systems establish the ordinary high water mark at any given site.

Rep. Barraclough asked if "navigable" is still defined as occurring where a log 6 inches in diameter and 6 foot long will float. Mr. Bacon said that is the test for public access. There are two tests: one for public access and a federal test for ownership.

Rep. Mitchell said it seems the dock owner is more fairly treated under the provisions of H524. Mr. Bacon said yes.

VOTE H524:

The motion to send H524 to the floor with a DO PASS recommendation passed by voice vote. Rep. Wood voted NO for the record. Rep. Stevenson will carry H524 on the floor.

H525:

George Bacon, Operations Chief South, Idaho Department of Lands (IDL), presented H525, legislation amending Idaho Code Section 58-1302 to modify the definition of "line of navigability" by changing not only the language, but also the concept employed for determination. The line of navigability is now determined by the concept of "customary type of water craft." H525 allows for several more relevant criteria to be used when determining the line of navigability, including: the line established by the waterward extent of existing and legally permitted encroachments, and the water depth and lake bed characteristics. The new concept is to be applied when no line of navigability has been established on the body of water in question.

QUESTIONS/COMMENTS: Rep. Wood asked for a definition of "waterward." Mr. Bacon said it is the direction you're looking towards the water.

**MOTION/VOTE
H525:**

A motion was made by Rep. Roberts to send H525 to the floor with a DO PASS recommendation. The motion passed by voice vote. Rep. Roberts will carry H525 on the floor.

H526:

George Bacon, Operations Chief South, Idaho Department of Lands

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 10, 2006

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS: Chairman Schroeder, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Langhorst

**ABSENT/
EXCUSED:** Vice Chairman Pearce, Senator Stennett

**CALL TO
ORDER:** **Chairman Schroeder** called the meeting to order at 1:35 p.m.

MINUTES: **Senator Brandt** moved to approve the minutes from March 6. **Senator Burtenshaw** seconded the motion. The motion carried by a **voice vote**.

Senator Burtenshaw moved to approve the minutes from March 3. **Senator Brandt** seconded the motion. The motion carried by a **voice vote**.

APPOINTMENT: **Senator Brandt** moved to approve the appointment of **Douglas Hancey**, whose hearing was held on March 8, **to the Park and Recreation Board**. **Senator Burtenshaw** seconded the motion. The motion carried by a **voice vote**. **Senator Hill** will sponsor the appointment on the floor.

H 524 **George Bacon, Operations Chief, Idaho Department of Lands (IDL)**, presented **H 524**, regarding **Encroachments, navigational permits**. He introduced **Mike Murphy, Program Manager, Navigable Waters Program**, who was present to answer questions. The Lake Protections Act, passed in 1974, set out regulations for property owners with encroachments on navigable lakes. People who already had encroachments, such as docks, at that time were allowed a free permit. Over the years during regulatory enforcement, individuals who had not obtained their free permit prior to the Act were still allowed to as long as they could prove that the encroachments existed prior to the Act. More than twenty years later, many properties have changed hands. This bill would allow a free permit for any encroachment which has not changed its footprint since 1974 as long as there is proof, such as photographs, to back it up. Permits are a one-time payment only, if the encroachment has not changed.

Senator Langhorst asked about the procedure and cost for adding an encroachment after 1974. **George Bacon** said there is a \$50 permitting fee to be paid prior to construction, and the encroachments must conform to guidelines on size and length.

MOTION: **Senator Little** moved **H 524** to the floor with a **do pass** recommendation. **Senator Brandt** seconded the motion. The motion carried by a **voice**

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- Darcy Helmick, chair-ICA (Grand View, ID)
- Merrill Beyeler—IRRC (Leadore, ID)
- Dawn Holmes-UI Rangeland Center PAC (Indian Valley, ID)
- Elizabeth Moss—IWGA (Hamer, ID)
- Mark Pratt—ICA (Blackfoot, ID)

Partners in promoting sustainable rangelands because we all care.

IRRC Funding:

- 1997 Legislatively mandated refundable assessment
- State and Federal grazing allotments @ \$.10/AUM for current/active use
- Private “category 5/dry graze” deeded land at \$.02/acre
- IDL includes IRRC assessment on annual bill
- BLM & USFS send a separate bill with allotment bills
- Private-data submitted by counties annually and billed by IRRC in the fall upon compiling and exemptions recorded
- Changes to assessment must be legislatively approved
- Grants and Assistance Agreements

IRRC funding



IRRC Goals:

- To increase public understanding that Idaho's rangelands are a renewable source of important consumer products and environmental values.
- To provide, coordinate, and disseminate factual information about the economic and environmental aspects of grazing management practices.
- To promote public support for Idaho's livestock industry.
- To help achieve and maintain a healthy livestock industry through responsible rangeland stewardship.
- To advocate balanced use of rangeland resources.

Idaho Rangeland Resources Commission (IRRC)

- **Care and Share Campaign** – “**Care** for Idaho’s rangelands and **Share** them respectfully with others.” The primary audience is outdoor recreationists who may not be aware of the authorized and historic use of public and private lands for livestock grazing.
- **Idaho Rangeland Outdoor Adventure Mobile (IROAM)** – An IRRC education partnership complete with rangeland ecology classroom exhibits and curriculum including hands-on activities.
- **Life on the Range Video Series** – The IRRC produced more than 100 educational videos that feature BLM topics of range monitoring, fire suppression, sage grouse habitat, multiple-use land management, post-fire restoration, recreation and livestock grazing.

Recreational User Stewardship

10 tips for a safe experience, continued

#9 SHOW RESPECT FOR ANIMALS

- Enjoy wildlife at a safe distance – don't get too close.
- If you see what you think is an abandoned animal, don't bring it home. It's mother is nearby.
- Stay in your vehicle for best viewing opportunities.
- Allow animals to drink when they approach a stream or water trough.

#10 PREVENT HUMAN-CAUSED FIRES

Most wildfires on Idaho rangelands are started by humans.

- Fully extinguish your campfire with water before leaving your campsite.
- There may be limitations on the use of campfires on public lands in August (fire season) or in times of extreme drought. Please do your part to protect these beautiful landscapes and wildlife.



10 TIPS for a safe & enjoyable experience on Idaho's rangelands

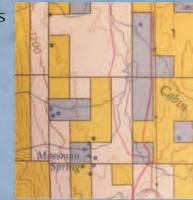


WELCOME TO IDAHO!

Idaho has more than 28 million acres of wild open spaces known as rangeland.

Many of our public lands are managed for multiple use. To ensure long-term access to our public lands, it's important that all trail users, campers, hunters and anglers show respect for the land, fellow public lands users and livestock.

Follow the Care/Share mantra: "Care for Idaho's public lands and share them respectfully with others."



#1 KNOW WHERE TO GO

Understand mixed land ownership, private property and trespass law. You may encounter, private, state and federal lands as part of your journey—even within the same pasture. Fences on rangeland are not ownership boundaries—they are a management tool for livestock. Research land ownership before you go.

- Maps – Bring hard-copy maps and a GPS. Many areas on Idaho's public lands are not in cell range.
- Respect private lands and No Trespassing signs. It's illegal to trespass on private lands. Violators can be subject to fines and prosecution.
- Use online trip-planning resources: trails.idaho.gov or the Idaho Hunt Planner (IDFG).

continued

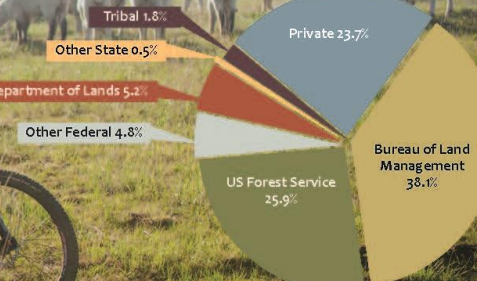


P.O. Box 126, Emmett, ID 83617
(208) 398-7002,
(877) ID RANGE (toll free in Idaho)
idahorange.org

Resources for more information:

BLM - blm.gov/idaho
US Forest Service – Contact the specific national forest you are visiting.
Care/Share web site - idrange.org/recreation/care-share
IDFG – idfg.idaho.gov/

MANAGEMENT OF RANGELAND IN IDAHO



National Land Cover Database, September 2018



Recreational User Stewardship

10 tips for a safe experience, continued

#2

BE A GOOD TRAIL AMBASSADOR

Slow down when approaching other trail users. Be friendly and say "hi" when you encounter others on the trail. A little courtesy goes a long way!

- In general, uphill traffic has the right of way.
- Mountain bikers and motorized trail users should yield to hikers, runners and horseback riders on the trail.
- If you approach horseback riders, talk to the riders and let the horses know you're human so they don't spook. Step off the trail and let them pass by.
- Keep singletracks single. ATVs and side by sides are not allowed on singletrack trails
- Stay on designated trails.

#3

LIVESTOCK GRAZING

Livestock grazing provides food and fiber for the nation while providing fuel-load reduction to mitigate wildfires. Ranching is the economic backbone of Idaho's rural communities. Rangelands are both play grounds for recreationists and work places for ranchers.

Showing respect for all users will allow for continued access and responsible management of Idaho's rangeland.



Here are some tips to co-exist with ranchers and land managers on rangeland:

- Leash pets when encountering sheep or cattle on the trail; dogs can be seen as a predator.
- If you encounter livestock on the trail, slow down to walking speed. Continue moving forward, and the animals will move off to the side of the trail.
- If you run into sheep, be aware that livestock guardian dogs – often large white Great Pyrenees dogs – are with the sheep to protect them from predators such as coyotes, bears, mountain lions and wolves.
- To avoid antagonizing guard dogs, mountain bikers should dismount from their bikes and walk through the sheep. Keep your bike between you and the guard dogs. Talk to the dogs. Let them know you're human. Once through the sheep, continue your ride.
- Don't try to outrun guard dogs on your mountain bike. This will encourage them to chase you.



#4

RURAL TRAFFIC JAM

- Be patient and enjoy Idaho's wide open spaces
- Take pictures



#5

GATES AND FENCES

If a gate is closed, pass through and return it back to the original position. If a gate is open, leave it open. Often, if a gate is meant to be open, it will be laid up against the fence. Fences are there to keep livestock in the correct pasture. Cutting fences causes damage to rangeland.

#6

NO ONE WANTS TO SEE YOUR MESS

Pack out your garbage. Leave no trace.



#7

BE PREPARED

There are no services in remote areas. Bring a good jack, a spare tire or even two spare tires if you're traversing rough 4WD roads. Pack jumper cables. Take a Spot, satellite phone or GPS with SOS function for emergencies. Let someone know where you plan to travel in advance.

#8

SHOOTING ON RANGELANDS

- Water troughs are necessary for birds, livestock and wildlife. Do not shoot or damage any infrastructure on rangeland.
- Never shoot from or over any road or highway.
- Set up a target with a safe and large backdrop.
- Exploding targets are prohibited.
- Don't use plastic pellets, tracer rounds, exploding rounds or steel-core rounds to avoid ricochets.
- Attach targets to a proper backstop. It is illegal to deface or destroy trees, fences, water developments, signs, outbuildings or other objects on public lands.
- Pack out all litter, bullet casings and shotgun shell casings.

continued

Idaho Rangeland Outdoor Adventure Mobile





Idaho Rangeland Outdoor Adventure Mobile



Target audience:
4th -6th Grade students

Content:

Rangeland ecology
through the seasons

Livestock grazing

Wildlife

Wildfire

Plants

Soils

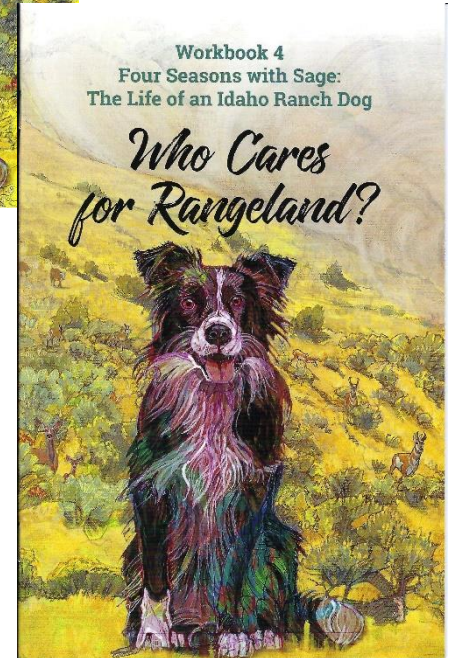
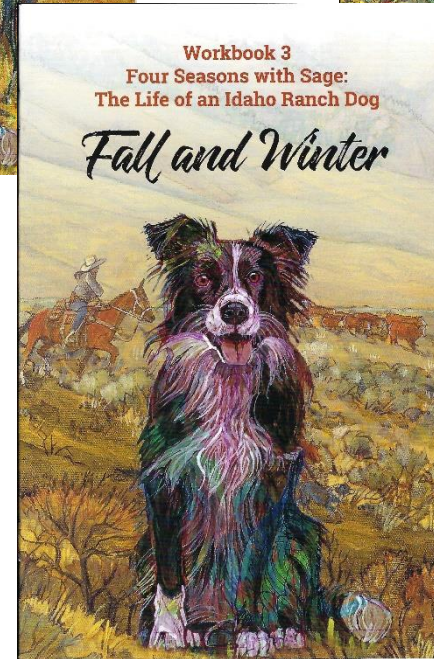
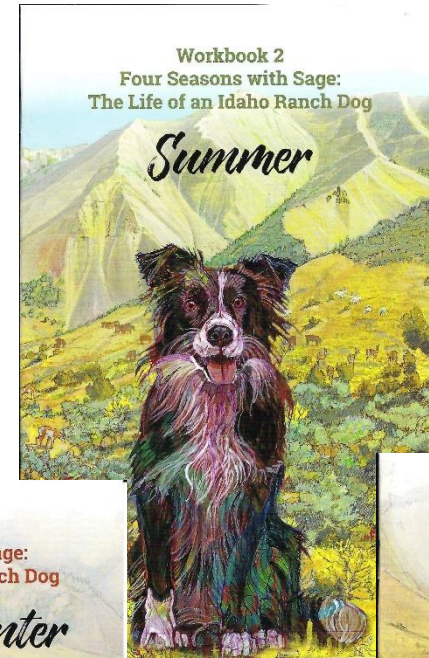
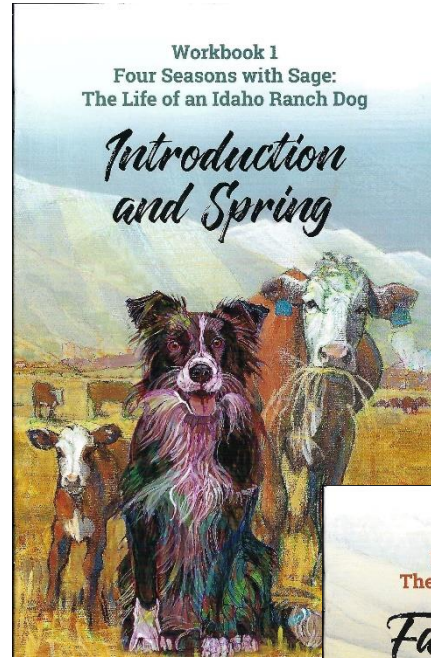
Multiple Use

Precipitation/Water

Data Collection



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Education

Understanding the place in which we live will result in better decisions about how to care for the land.

Idaho has several types of rangeland from mountain meadows to the salt desert shrubland. Did you know that over half of Idaho is classified as rangeland?

Here is a quick video introduction to Idaho rangelands.



What are Idaho Rangelands?

Copy link

Watch on  YouTube

Education

[IROAM](#)

[IROAM Reservation Form](#)

[Lessons and Activities](#)

[High School Resources](#)

[Educational Links](#)

[Grant Application](#)

[FAQ](#)

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LifeontheRange

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Educational videos about the Life on the Range project in Idaho ... ranch profiles, stories ab... >

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Meet Jay and Chyenne Smith: Raising Livestock in Idaho

244K views · 4 years ago



Wolf Management in Idaho

227K views · 4 years ago





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Gretchen Hyde, Director

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, January 31, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>26-0110-2301</u>	Rules Governing the Administration of Temporary Permits on Lands Owned by the Department of Parks and Recreation (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule No further testimony will be taken.	Susan Buxton, Director, Idaho Department of Parks and Recreation
<u>26-0120-2301</u>	Rules Governing the Administration of Parks and Recreation Areas and Facilities (Fee Rule) - Proposed Rule No further testimony will be taken.	Susan Buxton
GUBERNATORIAL REAPPOINTMENT VOTE:	Committee Vote on the Gubernatorial Reappointment of Edward Schriever of Boise, Idaho to Northwest Power and Conservation Council	
GUBERNATORIAL REAPPOINTMENT:	Committee Consideration of the Gubernatorial Appointment of Tammy Overacker of Salmon, Idaho to the State Outfitters and Guides Licensing Board to serve a term commencing April 20, 2023 and expiring April 20, 2026	Tammy Overacker
GUBERNATORIAL REAPPOINTMENT:	Committee Consideration of the Gubernatorial Reappointment of Ray Hinchcliff of Driggs, Idaho to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2023 and expiring July 1, 2027	Ray Hinchcliff
GUBERNATORIAL REAPPOINTMENT:	Committee Consideration of the Gubernatorial Reappointment of Betty Coppersmith of Eagle, Idaho to the Oil and Gas Conservation Commission to serve a term commencing July 1, 2023 and expiring July 1, 2027	Betty Coppersmith
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Gubernatorial Appointment of Margaret Chipman of Weiser, Idaho to the Oil and Gas Conservation Commission to serve a term commencing August 15, 2023 and expiring July 1, 2026	Margaret Chipman
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Gubernatorial Appointment of Marc Haws of New Plymouth, Idaho to the Oil and Gas Conservation Commission to serve a term commencing September 18, 2023 and expiring July 1, 2027	Marc Haws

GUBERNATORIAL APPOINTMENT: Committee Consideration of the Gubernatorial Appointment of Jennifer Riebe of Caldwell, Idaho to the Oil and Gas Conservation Commission to serve a term commencing April 25, 2022 and expiring July 1, 2025, and Reappointment for a term commencing July 1, 2023 and to expire July 1, 2027 Jennifer Riebe

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Egbert (Semmelroth)
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, January 31, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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.

PASSED THE GAVEL: Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

DOCKET NO. 26-0110-2301 **Rules Governing the Administration of Temporary Permits on Lands Owned by the Department of Parks and Recreation (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule.** No further testimony was taken. **Susan Buxton**, Director, Idaho Department of Parks and Recreation (IDPR) presented for further discussion. **Docket No. 26-0110-2301** was presented to the Committee on January 22, 2024 and testimony was heard at that meeting. **Ms. Buxton** referred the Committee to IDPR's handout listing the sections of **Docket Nos. 26-0110-2301** and **26-0120-2301** with explanations of the fee changes within these dockets. (Attachment 1) Changes to this docket included raising the processing fee for a new temporary permit, or modification of an existing temporary permit, from one hundred to three hundred dollars, and raising the processing fee for assignment or renewal of an existing temporary permit from twenty-five to fifty dollars.

DISCUSSION: **Senator Den Hartog** asked what was used to determine the increase in the cost per acre determined in section 150.02, which was changed from fifty dollars to being set by official board action and vote. **Ms. Buxton** responded that increases were based on appraisals and other market values in the area.

MOTION: **Senator Schroeder** moved to approve **Docket No. 26-0110-2301**. **Chairman Burtenshaw** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 26-0120-2301 **Rules Governing the Administration of Parks and Recreation Areas and Facilities (Fee Rule) - Proposed Rule.** No further testimony was taken. **Susan Buxton** presented for further discussion. **Docket No. 26-0120-2301** was presented to the Committee on January 22, 2024 and testimony was heard at that meeting. **Ms. Buxton** explained IDPR's reasoning for some of the fee increases in this Docket. She referred the Committee to IDPR's handout. (Attachment 1) She explained camping fees funded the general operations of parks and employee salaries. She agreed to re-evaluate fee increases in this Docket if the Committee rejected them.

MOTION: **Senator Okuniewicz** moved to approve **Docket No. 26-0120-2301** with the exception of sections 225.07, 245, 247, 250, 254, 256, and 276. **Senator Guthrie** seconded the motion.

DISCUSSION: **Senator Okuniewicz** provided the rationale for his motion. He stated that the unapproved sections of **Docket No. 26-0120-2301** were rejected because they allowed for a potentially unreasonable increase in charges to Idaho residents under Idaho Code § 67-4223(7). He added that in 2021, the legislature passed HB 93, with the intent that IDPR would increase fees for nonresidents whenever possible before increasing any fee or fees for Idaho residents.

VOICE VOTE: The motion to approve **Docket No. 26-0120-2301** with the exception of sections 225.07, 245, 247, 250, 254, 256, and 276 passed by **voice vote**.

PASSED THE GAVEL: Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

GUBERNATORIAL REAPPOINTMENT VOTE: **Senator Harris** moved to send the Gubernatorial Reappointment of Edward Schriever of Boise, Idaho to Northwest Power and Conservation Council to the floor with recommendation that he be confirmed by the Senate. **Vice Chairman Adams** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Tammy Overacker of Salmon, Idaho to the State Outfitters and Guides Licensing Board** to serve a term commencing April 20, 2023 and expiring April 20, 2026. **Ms. Overacker** presented before the Committee and shared about her experience in the outfitting industry and about running outfitting operations in Idaho.

DISCUSSION: **Senator Harris** asked Ms. Overacker to share about what she wanted to accomplish on this board. **Ms. Overacker** responded that she would like to review the wording in their rules and ensure that changes made during rules reviews had not changed their intended meaning. She listed some challenges in the industry that concerned her, including increased difficulties obtaining liability insurance, grizzly bear reintroduction specifically into the Frank Church Wilderness, and declining herd counts. **Senator Harris** asked if Ms. Overacker saw any improvement in the tag allocation process. **Ms. Overacker** guessed that twenty percent of the outfitters in Idaho did not have all the tags that they needed to operate. **Senator Harris** asked Ms. Overacker if she saw any potential for improvement in this area. **Ms. Overacker** responded that there was legislation pending for next winter that might help. She stated that basing outfitter tag allocation on their history of tag sales made it difficult to manage that resource while keeping herd counts up.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Ray Hinchcliff of Driggs, Idaho to the Oil and Gas Conservation Commission** to serve a term commencing July 1, 2023 and expiring July 1, 2027. **Mr. Hinchcliff** presented before the Committee and shared about his experience in the oil and gas industry, his family, and that he also served on the local school board in Teton County.

DISCUSSION: **Senator Harris** asked Mr. Hinchcliff what he thought was the biggest issue affecting the Oil and Gas Conservation Commission. **Mr. Hinchcliff** responded they had already gone through changes to Idaho Code § 47-3, so it depended on what came before the Committee.

GUBERNATORIAL REAPPOINTMENT: **Committee Consideration of the Gubernatorial Reappointment of Betty Coppersmith of Eagle, Idaho to the Oil and Gas Conservation Commission** to serve a term commencing July 1, 2023 and expiring July 1, 2027. **Ms. Coppersmith** presented before the Committee and explained why all five appointments to the Oil and Gas Conservation Commission were before the Committee today, which was due to changes in the requirements for the Commission. She shared about her history in the oil and gas industry and some of the challenges facing the Commission, including how to manage out of production wells.

DISCUSSION: **Senator Den Hartog** thanked Ms. Coppersmith and Mr. Hinchcliff for their willingness to share their experience and expertise with the Commission.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Margaret Chipman of Weiser, Idaho to the Oil and Gas Conservation Commission** to serve a term commencing August 15, 2023 and expiring July 1, 2026. **Ms. Chipman** presented before the Committee and shared some of her personal history, her history in the feedlot and ranching business, and some of the other boards and councils on which she had served. She stated she previously served on the Commission because she was a landowner with mineral rights, and now she brought her familiarity with Idaho land use issues.

DISCUSSION: **Senator Okuniewicz** asked if there was any oil and gas activity in the Weiser area and if that was something that might cause a conflict. **Ms. Chipman** responded that they explored her area, but there was really no oil or gas in their county.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Marc Haws of New Plymouth, Idaho to the Oil and Gas Conservation Commission** to serve a term commencing September 18, 2023 and expiring July 1, 2027. **Mr. Haws** presented before the Committee and shared about his background as a rancher and as a lawyer, about his family, and about his interest in gas production. He hoped to bring a common sense view to the Commission.

DISCUSSION: **Chairman Burtenshaw** asked Mr. Haws if his ranches were in the Payette County gas fields. **Mr. Haws** responded that they were, and some exploration had been done, however, nothing developed.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Jennifer Riebe of Caldwell, Idaho to the Oil and Gas Conservation Commission** to serve a term commencing April 25, 2022 and expiring July 1, 2025, and **Reappointment of Jennifer Riebe of Caldwell, Idaho to the Oil and Gas Conservation Commission** for a term commencing July 1, 2023 and expiring July 1, 2027. **Ms. Riebe** presented before the Committee and shared about her background in agriculture and her history of involvement with natural gas extraction through her positions on the Payette County Planning and Zoning Commission and the Payette County Board of Commissioners. She believed her role on the Commission was to address environmental concerns of the citizens of Payette County and to represent land owners who were mineral owners. She thought natural gas was a small but important industry in Payette County.

DISCUSSION: **Senator Okuniewicz** asked how long Ms. Riebe had left in her term as county commissioner and if her term ended before her appointment on the Commission. **Ms. Riebe** responded that she would be on the county commission for another three years.

ADJOURNED: There being no further business as this time, **Chairman Burtenshaw** adjourned the meeting at 2:12 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary



State of Idaho Department of Parks and Recreation

BRAD LITTLE Governor

SUSAN E. BUXTON Director

Idaho Park and Recreation Board

Brian Beckley, Chair - District 3 | Chuck Roady - District 1 | Hugh Cooke - District 2 | Mike Roach - District 4 | Amy Manning - District 5 | Louis Fatkin - District 6

January 26, 2024

To: Susan E. Buxton, Director

From: Seth Hobbs, RRO

Subject: Fee Rules 26.01.10, Docket 26-0110-2301 and 26.01.20, Docket 26-0120-2301

Staff recommends when you meet with the Senate Resources Committee, they consider the following based on this week's rules hearing:

The Committee would approve IDAPA 26.01.20, Docket No. 26-0120-2301, except reject Sections 225.07; 245; 247; 250; 254; 256; and 276.

The items in blue are current rule language that IDPR requested to change. These blue items will remain in effect after the docket is rejected. Items in red were the recommended changes that will be removed after the docket is rejected.

Section 259 is a fee item that could remain stricken in the rules changes proposed by IDPR as it is redundant if the committee agrees this is a prudent change.

Below are the fee sections in question:

26.01.20.225.07:

07. Admission Fees. An admission fee may be charged for internal park facilities, areas, programs, or recreational activities which provide an educational opportunity, or require special accommodations or special services. Admission fees are set by the park or program manager and will generally not fall below the cost of providing services.

26.01.20.245: Fee Schedule: Fee Collection Surcharge.

Table with 2 columns: Category, Fee. Row 1: Fee Collection Surcharge, \$25 35/day

26.01.20.247: Fee Schedule: Entrance.

Table with 2 columns: Category, Fee. Rows: Daily MVEF (\$7 20/day/vehicle), Annual MVEF (\$80 120/year/vehicle), Annual MVEF Replacement (\$5/vehicle)

Commercial Motor Vehicle Entrance	\$ 50 <u>100</u> /day/vehicle
Admission, Day	\$20/person
<u>Admission, Month</u>	<u>\$100/person</u>
<u>Admission, Season</u>	<u>\$500/person</u>

26.01.20.250: Fee Schedule: Individual Campsite or Facility.

Category	Fee
Basic Campsite: site may have water	\$ 34 <u>72</u> /day
Electric Campsite: site has electricity and may have water	\$ 42 <u>90</u> /day
Full Hook-up Campsite: site has electricity, water, and sewer	\$ 46 <u>96</u> /day
Companion Campsite: site has electricity and may have water	\$ 84 <u>192</u> /day
Hike-in/Bike-in Campsite	\$ 12 <u>36</u> /person/day
Extra Vehicle	\$8/day
Overnight Use of Parking Areas	\$20/night/vehicle, trailer, or vehicle with attached trailer
Use of Campground Showers by Non-campers	\$3 <u>10</u> /person/day
Camping Cabins and Yurts	\$500/night
Each additional person above the base occupancy of camping cabin or yurt	\$12/person/night
Pets	\$15/pet/night
Cleaning	\$ 50 <u>500</u>

26.01.20.254: Fee Schedule: Group Campsite or Facility.

Category	Fee
Reservation Service Charge (non-transferable, non-refundable)	\$ 25 <u>50</u>
Group use of day use facility, overnight facility, or group camp (set by park or program manager)	Varies
Each additional person above the base occupancy of the overnight facility	\$12/person/night

26.01.20.256: Fee Schedule: Boating Facility.

Category	Fee
Vessel Launching	MVEF or \$ 7 <u>20</u> / day/vessel
Overnight moorage at dock or buoy, person staying at campsite or facility and not staying on the vessel	\$ 9 <u>30</u> /night
Overnight moorage at dock, person staying on vessel	\$ 10 <u>40</u> /night
Overnight moorage at buoy, person staying on vessel	\$ 9 <u>30</u> /night

26.01.20.276: Fee Schedule: Reservations.

Category	Fee
Reservation Service Charge, individual campsite or facility	Current RV sticker or \$10/campsite or facility
Reservation Service Charge, group reservation for campsite or facility	\$25 <u>50</u>

Modification, <u>individual campsite or facility</u>	\$10/campsite or facility
Modification, <u>special use campsite, or facility</u>	<u>First night's fee or daily usage fee</u>
Cancellation, individual campsite or facility, prior to check-in time	\$10/campsite or facility
Cancellation, individual campsite or facility, after check-in time	First night's fee
Cancellation, special use campsite or facility, more than 21 days in advance	<u>First night's fee plus \$50/facility</u>
Cancellation, <u>individual special use</u> campsite or facility, 21 days or less in advance	First night's or daily usage fee

As discussed earlier, staff recommends that the below fee item remain stricken (be removed as requested) as it is redundant.

26.01.20.259: ~~Fee Schedule: Winter Recreation Programs.~~

<u>Category</u>	<u>Fee</u>
Winter Access Daily Pass, individual	\$6/person/day
Winter Access Daily Pass, family	\$100/family/season
Winter Access Season Pass, individual	\$50/person/season
Winter Access Season Pass, couple	\$75/couple/season
Winter Recreation Parking, temporary three-day permit	\$10/three days
Winter Recreation Parking, annual permit	\$30/year

26.01.10 – Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation

For section 100, staff recommends keeping these fee changes in rule. The department calculated the recommended fees to cover the administration of processing these crossing permits and encroachment permits. At the current fee, the department is losing money processing these requests.

100. PROCESSING FEES.

01. Issuance or Modification. The processing fee for a new temporary permit, or modification of an existing temporary permit, is ~~one three~~-hundred dollars (~~\$1300~~), which ~~must needs to~~ be received from all applicants before processing can proceed. The processing fees are designed to offset processing costs and are nonrefundable.

02. Assignment or Renewal. The processing fee for assignment or renewal of an existing temporary permit is ~~twenty-five fifty~~ dollars (~~\$2550~~), and ~~must needs to~~ be received before processing can proceed. The processing fees are designed to offset processing costs and are nonrefundable.

For section 150, staff recommends keeping this fee change in rule. The cash compensation of fifty dollars does not meet local business standards. Cost associated with real estate acreage is based on fair market value. The \$50/acre is very outdated. This rule change allows the board to look at these factors and set the amount by official board vote based on the actual encroachment/lien or easement required of the work needed to process the request.

150. COMPENSATION.

02. Cost per Acre. Cash compensation for a temporary permit is charged at a rate set by board policy ~~of fifty dollars (\$50)~~ per acre of IDPR land utilized per year or any portion thereof, and is specified in the temporary permit. Temporary permits of less than one (1) year in duration will not be prorated.

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 05, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>RS 31184C1</u>	Related to Navigational Encroachments	Senator Herndon
<u>S 1243</u>	GRAZING - Adds to existing law to provide for permits.	Senator Harris
<u>20-0301-2301</u>	Rules Governing Dredge and Placer Mining Operations in Idaho (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule	Eric Wilson, Resource Protection And Assistance Bureau Chief, Idaho Department of Lands
<u>20-0303-2301</u>	Rules Governing Administration of the Reclamation Fund (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule	Eric Wilson
<u>20-0305-2301</u>	Navigable Waterways Mineral Leasing in Idaho (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule	Eric Wilson
<u>20-0101-2301</u>	Rules of Practice and Procedure Before the State Board of Land Commissioners (ZBR Chapter Rewrite) - Proposed Rule	Dustin Miller, Director, Idaho Department of Lands
<u>20-0501-2301</u>	Rules Pertaining to the Recreational Use of Endowment Land (New Chapter) - Proposed Rule	Todd Wernex, Recreation Program Manager, Idaho Department of Lands
MINUTES APPROVAL:	Minutes of January 22, 2024	Senator Adams Senator Okuniewicz
MINUTES APPROVAL:	Minutes of January 24, 2024	Senator Harris Senator Schroeder
GUBERNATORIAL REAPPOINTMENT VOTE:	Committee Vote on the Gubernatorial Reappointment of Tammy Overacker of Salmon, Idaho to the State Outfitters and Guides Licencing Board	
GUBERNATORIAL REAPPOINTMENT VOTE:	Committee Vote on the Gubernatorial Reappointment of Ray Hinchcliff of Driggs, Idaho to the Oil and Gas Conservation Commission	
GUBERNATORIAL REAPPOINTMENT VOTE:	Committee Vote on the Gubernatorial Reappointment of Betty Coppersmith of Eagle, Idaho to the Oil and Gas Conservation Commission	

GUBERNATORIAL APPOINTMENT VOTE: Committee Vote on the Gubernatorial Appointment of Margaret Chipman of Weiser, Idaho to the Oil and Gas Conservation Commission

GUBERNATORIAL APPOINTMENT VOTE: Committee Vote on the Gubernatorial Appointment of Marc Haws of New Plymouth, Idaho to the Oil and Gas Conservation Commission

GUBERNATORIAL APPOINTMENT VOTE: Committee Vote on the Gubernatorial Appointment of Jennifer Riebe of Caldwell, Idaho to the Oil and Gas Conservation Commission

GUBERNATORIAL REAPPOINTMENT VOTE: Committee Vote on the Gubernatorial Reappointment of Jennifer Riebe of Caldwell, Idaho to the Oil and Gas Conservation Commission

***Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)***

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 05, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 31184C1 **Related to Navigational Encroachments. Senator Herndon** explained this legislation replaced **S 1257**, which was previously heard in this Committee as **RS 30973C1**. **S 1257** added a clarifying definition to Idaho Code § 58-1312 concerning the 1974 Lake Protection Act. The definition of the phrase "has not been modified" was added to state that the overall footprint of the encroachment on the lake bed had not changed in dimension, orientation, height, or location. This allowed owners to repair and maintain encroachments on the lake bed that existed prior to 1974 without having to obtain a new permit and pay for the permitting and application process. Language in Senate Bill 1257 was revised to also allow for overall footprints that decreased, resulting in **RS 31184C1**.

MOTION: **Senator Schroeder** moved that **RS 31184C1** be sent to print. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

S 1243 **GRAZING - Adds to existing law to provide for permits. Senator Harris** explained **S 1243** allowed certain State grazing leaseholders to apply to the Idaho Department of Lands (IDL) to convert their grazing lease into a grazing permit, which allowed leaseholders who were good stewards of the land the ability to renew their grazing rights without having to reapply and rebid. **Norman Semanko**, attorney, Parsons Behle and Latimer, presented to share his opinion on the constitutionality of this legislation. He referred the Committee to their handout titled "Article IX Education and School Lands". (Attachment 1) He spoke about the history of Idaho endowment lands, related case law, the purpose of endowment lands to benefit public schools, and the public auction requirement. His opinion was that **S 1243** built upon the distinction in the Idaho Constitution between the trust lands granted to the State of Idaho upon admission, and those acquired later, for example, through an exchange.

DISCUSSION: In response to several questions from Senator Schroeder and Senator Okuniewicz, **Mr. Semanko** expanded on what might happen to the requirement to benefit public schools after endowment land was exchanged, he provided his interpretation of the Idaho Constitution related to the power of the legislature to prescribe how and when public lands were exchanged, and he addressed the responsibility of the legislature and IDL to make prudent investment decisions with these transactions.

TESTIMONY: **Jonathan Oppenheimer**, Government Relations Director, Idaho Conservation League (ICL), testified against **S 1243**. He noted that lessees were provided opportunities to remove their lands from the exchange, and shared his concern that this legislation violates the constitutional requirement to maximize returns via public bidding.

Cody Chandler from Weiser, Idaho, testified in favor of **S 1243**. He disputed that lessees were provided opportunities to remove their lands from the exchange, he agreed that this legislation was constitutional, and he shared his personal stake in this legislation as a rancher trying to make a living.

DISCUSSION: **Senator Okuniewicz** asked several questions related to legal agreements attached to land leases. **Mr. Chandler** responded that if he held a grazing permit on land that was sold, his permit was canceled and he was to be reimbursed for the loss of his property right. He stated there was no specification within his lease stating he was entitled to retain ownership of his grazing rights when his leased property was sold.

Russ Hendricks, representing the Idaho Farm Bureau Federation, testified in favor of **S 1243**. He stated this legislation recognized preexisting encumbrances on exchanged federal land in a constitutional and narrowly crafted way.

DISCUSSION: **Senator Lakey** emphasized a few points in closing. These included:

- Article IX, Section 8 of the Idaho Constitution clearly provided for two types of land, the land acquired by endowment from Congress and the land that was otherwise acquired
- the land subject to this legislation was not the endowment land and not subject to the auction requirement
- the state has the obligation to manage lands for long term financial benefit and discretion in management was granted to the legislature
- these federal grazing permits had been recognized as a property right, and should be compensable, if taken
- not every property owner was given the opportunity to opt out of an exchange

He shared his belief in the long term benefit to the State in a consistent long term lease, in grazing on state lands, and in contributions by the livestock industry to the economy.

MOTION: **Senator Guthrie** moved to moved to send **S 1243** to the floor with a do pass recommendation. **Vice Chairman Adams** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

DOCKET NO. 20-0301-2301 **Rules Governing Dredge and Placer Mining Operations in Idaho (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule.** **Eric Wilson**, Resource Protection and Assistance Bureau Chief, Idaho Department of Lands (IDL) referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website, starting on page 85. He explained IDL administered these rules under the authority of the Idaho Dredge and Placer Mining Protection Act, Idaho Code § 47-13. This rule allowed resource extraction while protecting the lands, streams, and watercourses of the state. Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter was scheduled for a comprehensive review in 2023. He provided a summary of the negotiated rulemaking process for this rule. The pending rule included the following substantive changes:

- The annual inspection fees of \$100 for permits on United States Forest Service lands and \$250 for all other permits was raised to \$435 for all permits.
- Late payment policy was updated.
- Surety companies issuing bonds must be listed in the United States Department of the Treasury's Circular 570.
- The 120 day cancellation notification was reduced to 90 days.
- Time Deposit Receipts were recognized as acceptable forms of bonding.

DISCUSSION:

Senator Den Hartog asked how IDL calculated the \$435 cost and if there were any comments regarding this fee increase. **Mr. Wilson** responded that IDL factored in the average driving time to and from each mining site and the average amount of time staff spent at the site, which was a average total time of eight hours. They then factored in an average wage. He stated there were no concerns from their customers about the amount of the inspection fee. **Senator Semmelroth** asked if there were any comments regarding changes to their public notice. **Mr. Wilson** responded that there were no concerns about public notice for this rule. In response to a comment from Senator Guthrie, **Mr. Wilson** stated that IDL's interpretation of statute was that they charge one application fee for all applicants. **Senator Adams** asked for an explanation of the change for scaled cross-sections from length and width to length and height in subsection 04.f on page 112. **Mr. Wilson** explained this length would be the length of the pit, and the height would be the depth.

MOTION:

Chairman Burtenshaw moved to approve **Docket No. 20-0301-2301**. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
20-0303-2301**

Rules Governing Administration of the Reclamation Fund (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. **Eric Wilson**, referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website, starting on page 131. He explained IDL administered these rules under the authority of Idaho Code § 47-18. These rules guided administration of Idaho's Reclamation Fund, which provided an alternative form of performance bond or financial assurance as required by Idaho mining regulations. This fund was used by IDL to complete reclamation when an operator was unable to do so. Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter was scheduled for a comprehensive review in 2023. He provided a summary of the negotiated rulemaking process for this rule. The only substantive change in the pending rule was an update to the late payment policy.

DISCUSSION:

Senator Adams asked why "and the federal agency" was added to section 020. on page 140, and why operators would need to provide proof of reclamation security beyond what was already provided to IDL. **Mr. Wilson** explained IDL attempted to ensure that an operator was not bonded with multiple entities, but to do that, they had to ensure that the bond provided by the operator was acceptable to both parties.

MOTION:

Senator Harris moved to approve **Docket No. 20-0303-2301**. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
20-0305-2301**

Navigable Waterways Mineral Leasing in Idaho (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. **Eric Wilson**, referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website, starting on page 142. He explained IDL managed the beds of navigable lakes and rivers for the benefit of the public. Their funding came from fees and rent charged by IDL for the use of these lands. At the end of Fiscal Year 2023, approximately 10,700 permits, 196 leases, and 147 easements were active in this program. This rule established a consistent process to authorize mineral exploration and extraction on state owned navigable rivers and to collect rents and royalties. Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter was scheduled to be repealed and replaced in 2023. The pending rule included the following substantive changes:

- The rule now included all state-owned navigable water bodies rather than just riverbeds.
- The \$50 lease application fee in place since 1991 was increased to \$425.
- The assignment fee was raised from \$50 to \$200 to cover costs.
- Lease application advertising fee was raised from \$45 to \$75.
- Exploration Location Fee was increased from \$250 to \$500.
- Late payment policy was updated.

DISCUSSION:

Senator Okuniewicz asked how the fee for additional acres was calculated in Section 30.01 for minimum annual rental and for an example of how this fee was calculated. **Mr. Wilson** responded that acreage was difficult to calculate for riverbed leases, so they based leases on river miles, not acres. He stated that IDL had difficulty getting recreational suction dredgers to report revenue, so they raised the minimum annual rental. This would attempt to reimburse the public for providing an exclusive right to mineral exploration on the rented riverbed and for any minerals they might remove. **Senator Okuniewicz** asked how IDL could charge a minimum fee in this case, but was required to charge a set fee in the case mentioned earlier in this meeting. **Mr. Wilson** responded that the prior fee was a fee to reimburse a cost, but a rental had a value that was difficult to determine. **Senator Guthrie** asked about the change in definition of riverbed to navigable waters and if that would lead to an increase in revenue. **Mr. Wilson** responded that there was no regulatory framework providing for mineral leases on lakes, so this provided a way to apply for a lease on a lakebed.

TESTIMONY:

Jonathan Oppenheimer testified against **Docket No. 20-0305-2301**. He shared ICL's concern that exploration locations provided exclusive two-year mineral rights for exploration, but did not include opportunities or requirements for public notice.

MOTION:

Senator Den Hartog moved to hold **Docket No. 20-0305-2301** subject to call of the Chair. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**DOCKET NOS.
20-0101-2301,
20-0501-2301**

Vice Chairman Adams stated the remaining Idaho Department of Lands rules would be considered at a future meeting.

**PASSED THE
GAVEL:**

Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

**MINUTES
APPROVAL:**

Senator Adams moved to approve the Minutes of January 22, 2024. **Senator Okuniewicz** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Harris** moved to approve the Minutes of January 24, 2024. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT, REAPPOINTMENT VOTES: **Chairman Burtenshaw** stated the meeting had run out of time, so the Gubernatorial Reappointment votes for Tammy Overacker, Ray Hinchcliff, and Betty Coppersmith, the Gubernatorial Appointment votes for Margaret Chipman and Marc Haws, and the Gubernatorial Appointment and Reappointment votes for Jennifer Riebe would be considered in a future meeting.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 3:01 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

ARTICLE IX EDUCATION AND SCHOOL LANDS

Section 8. LOCATION AND DISPOSITION OF PUBLIC LANDS. It shall be the duty of the state board of land commissioners to provide for the location, protection, sale or rental of all the lands heretofore, or which may hereafter be granted to or acquired by the state by or from the general government, under such regulations as may be prescribed by law, and in such manner as will secure the maximum long term financial return to the institution to which granted or to the state if not specifically granted; provided, that no state lands shall be sold for less than the appraised price. No law shall ever be passed by the legislature granting any privileges to persons who may have settled upon any such public lands, subsequent to the survey thereof by the general government, by which the amount to be derived by the sale, or other disposition of such lands, shall be diminished, directly or indirectly.

The legislature shall, at the earliest practicable period, provide by law that the general grants of land made by congress to the state shall be judiciously located and carefully preserved and held in trust, subject to disposal at public auction for the use and benefit of the respective object for which said grants of land were made, and the legislature shall provide for the sale of said lands from time to time and for the sale of timber on all state lands and for the faithful application of the proceeds thereof in accordance with the terms of said grants; provided, that not to exceed one hundred sections of state lands shall be sold in any one year, and to be sold in subdivisions of not to exceed three hundred and twenty acres of land to any one individual, company or corporation. The legislature shall have power to authorize the state board of land commissioners to exchange granted or acquired lands of the state on an equal value basis for other lands under agreement with the United States, local units of government, corporations, companies, individuals, or combinations thereof.

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 07, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>RS 30908C1</u>	Relating to the Department of Lands	Senator Harris
GUBERNATORIAL REAPPOINTMENT VOTE:	Committee Vote on the Gubernatorial Reappointment of Tammy Overacker of Salmon, Idaho to the Idaho Outfitters and Guides Licensing Board	
GUBERNATORIAL REAPPOINTMENT VOTE:	Committee Vote on the Gubernatorial Reappointment of Ray Hinchcliff of Driggs, Idaho to the Oil and Gas Conservation Commission	
GUBERNATORIAL REAPPOINTMENT VOTE:	Committee Vote on the Gubernatorial Reappointment of Betty Coppersmith of Eagle, Idaho to the Oil and Gas Conservation Commission	
GUBERNATORIAL APPOINTMENT VOTE:	Committee Vote on the Gubernatorial Appointment of Margaret Chipman of Weiser, Idaho to the Oil and Gas Conservation Commission	
GUBERNATORIAL APPOINTMENT VOTE:	Committee Vote on the Gubernatorial Appointment of Marc Haws of New Plymouth, Idaho to the Oil and Gas Conservation Commission	
GUBERNATORIAL APPOINTMENT VOTE:	Committee Vote on the Gubernatorial Appointment of Jennifer Riebe of Caldwell, Idaho to the Oil and Gas Conservation Commission	
GUBERNATORIAL REAPPOINTMENT VOTE:	Committee Vote on the Gubernatorial Reappointment of Jennifer Riebe of Caldwell, Idaho to the Oil and Gas Conservation Commission	
<u>58-0101-2301</u>	Rules for the Control of Air Pollution in Idaho - Proposed Rule	Tiffany Floyd, Air Quality Division Administrator, Idaho Department of Environmental Quality
<u>58-0107-2301</u>	Rules Regulating Underground Storage Tank Systems (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule	Michael McCurdy, Waste Management and Remediation Division Administrator, Idaho Department of Environmental Quality

58-0108-2301

Idaho Rules for Public Drinking Water Systems (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule

Jerri Henry, Drinking Water Protection and Finance Administrator, Idaho Department of Environmental Quality
Tyler Fortunati, Drinking Water Bureau Chief, Idaho Department of Environmental Quality

58-0125-2301

Rules Regulating the Idaho Pollutant Discharge Elimination System Program (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule

Mary Anne Nelson, Surface and Wastewater Division Administrator, Idaho Department of Environmental Quality

***Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)***

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw

Vice Chairman Adams

Sen Guthrie

Sen Den Hartog

Sen Harris

Sen Okuniewicz

Sen Schroeder

Sen Semmelroth

Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson

Room: WW37

Phone: 332-1323

Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 07, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 30908C1 **Relating to the Department of Lands. Senator Harris** explained this legislation removed the responsibility of the Office of the Attorney General to provide legal representation to the Idaho Department of Lands (IDL) and allowed them to hire or contract their own legal counsel. This addressed a perceived conflict of interest, as the Attorney General was a member of the Idaho State Board of Land Commissioners, who provided direction to the Department of Lands.

MOTION: **Senator Den Hartog** moved that **RS 30908C1** be sent to print. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE: **Senator Den Hartog** moved to send the Gubernatorial Reappointment of Tammy Overacker of Salmon, Idaho to the Idaho Outfitters and Guides Licensing Board to the floor with the recommendation that she be confirmed by the Senate. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE: **Senator Harris** moved to send the Gubernatorial Reappointment of Ray Hinchcliff of Driggs, Idaho to the Oil and Gas Conservation Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE: **Senator Schroeder** moved to send the Gubernatorial Reappointment of Betty Coppersmith of Eagle, Idaho to the Oil and Gas Conservation Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Taylor** moved to send the Gubernatorial Appointment of Margaret Chipman of Weiser, Idaho to the Oil and Gas Conservation Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Den Hartog** moved to send the Gubernatorial Appointment of Marc Haws of New Plymouth, Idaho to the Oil and Gas Conservation Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT AND REAPPOINTMENT VOTE: **Senator Harris** moved to send the Gubernatorial Appointment and Gubernatorial Reappointment of Jennifer Riebe of Caldwell, Idaho to the Oil and Gas Conservation Commission to the floor with the recommendation that she be confirmed by the Senate. **Senator Adams** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

**DOCKET NO.
58-0101-2301**

Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

Rules for the Control of Air Pollution in Idaho - Proposed Rule. Tiffany Floyd, Air Quality Division Administrator, Idaho Department of Environmental Quality (DEQ), referred the Committee to the 2024 Senate Resources and Environment Committee Pending Rules Review Book posted on the Idaho Legislature website, starting on page 255. She explained this rulemaking updated federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA). It also updated citations to other federal regulations necessary to retain state primacy of Clean Air Act programs. This year's incorporation included changes made to the Code of Federal Regulations (CFR) as of July 1, 2023. The administrative actions most relevant to Idaho were:

- EPA approved Idaho's Implementation Plan which updated the incorporation by reference of federal regulations from last year.
- EPA approved Idaho's Board of Environmental Quality composition requirements.

EPA also took additional actions related to court orders and required risk and technology reviews for some specific sources of pollution. The most relevant actions were:

- For boilers and process heaters, EPA revised emission limits per a court order and made technical clarifications and corrections.
- For paint stripping operations, EPA did not change emission limits, but made clarifications, and required electronic reporting.
- For the surface coating operations, EPA revised emission limits for volatile organic compounds to reflect updated control technologies.

EPA also updated regulations for source testing of emissions under various rules. This included correcting typographical and technical errors, updating outdated procedures, and adding clarity and consistency among monitoring requirements. These revisions improved the quality of data but did not impose new requirements on facilities, owners, or operators. The definition of "excess emissions" was added to section 130, while also moving the terms and definitions into a list and alphabetizing them for easier reading.

DISCUSSION:

Senator Den Hartog asked how DEQ notified the industry about changes and their impact. **Ms. Floyd** responded that they do this in a number of ways, including utilizing environmental consulting firms, utilizing a Boise State University small business assistance program that published newsletters, and initiating their own outreach.

MOTION:

Senator Harris moved to approve **Docket No. 58-0101-2301**. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
58-0107-2301**

Rules Regulating Underground Storage Tank Systems (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. Michael McCurdy, Waste Management and Remediation Division Administrator, DEQ, referred the Committee to the 2024 Senate Resources and Environment Committee Pending Rules Review Book posted on the Idaho Legislature website, starting on page 261. He explained the authority for these rules came from the Idaho Underground Storage Tank Act, Idaho Code § 39-88. This negotiated rulemaking was initiated in 2023 in response to Executive Order 2020-01, Zero Based Regulation (ZBR). He provided a summary of the negotiated rulemaking process for this rule. There were several sections revised to simplify language, or remove unnecessary language and attempt to be more clear. The more substantive modifications were:

- Section 010, Definitions, page 272-274. Removed the definitions that were identified in statute and referred to Idaho Code sections within the rule. Also included references to other rule chapters where definitions were cited in those rules.
- Deleted Section 300.01, Requirements, page 278. Removed this language as DEQ fulfilled this requirement, and the requirement was in the statute, Idaho Code § 39-8807.
- Deleted Section 400, Inspections, page 279. This section was never used and was removed.
- Deleted Section 600, Petroleum UST Database, page 282. Removed this language as DEQ fulfilled this requirement. The database was available to the public on the DEQ website.

MOTION:

Chairman Burtenshaw moved to approve **Docket No. 58-0107-2301**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
58-0108-2301**

Idaho Rules for Public Drinking Water Systems (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. **Jerri Henry**, Drinking Water Protection and Finance Administrator, DEQ, referred the Committee to the 2024 Senate Resources and Environment Committee Pending Rules Review Book posted on the Idaho Legislature website, starting on page 284. She explained changes to this rule represented compliance with Executive Order No. 2020-01, ZBR. She provided a summary of the negotiated rulemaking process for this rule. For this rulemaking, DEQ updated their rules to adopt by reference the federal regulations. They did not propose any new regulations not regulated by the federal government and no changes were made to be more stringent than they federal regulations. There were two sections of the rules that were not expressly regulated by the federal government. Modifications were made to these sections for clarity and to address public comments:

1. The primacy requirement outlined in the Code of Federal Regulations - 40 CFR 142.10(b)(5) was accomplished through Idaho Code § 39-118, which required the review and approval of plans and specifications prior to construction or modification of a public water or wastewater system, and through the corresponding engineering standards in rule sections 500-552.
2. The multiple barrier approach to prevent contamination of distribution systems from cross connections with non-potable water was addressed in the cross-connection control section.

No changes to fees or fee structures were introduced. During the process of negotiated rulemaking, EPA promulgated the Lead Copper Rule Revisions. Through consultation with the Drinking Water Advisory Committee and the Water Utility Council, both of which represent public water systems and communities throughout the state, DEQ determined it was in the best interest of state public water systems to adopt the rule. This allowed DEQ the ability to enter into compliance schedules to provide additional time and flexibility when appropriate. Therefore, DEQ adopted the Code of Federal Regulations, as of July 1, 2023, which encompassed the Lead and Copper Rule Revisions effective December 2021.

Tyler Fortunati, Drinking Water Bureau Chief, DEQ, reviewed the sections of **Docket Number 58-0108-2301** that underwent important or significant changes. The nine areas of proposed changes were as follows:

1. Definitions in section 003 were removed if they existed in Idaho Code or the Code of Federal Regulations.
2. Section 003.27, Like-Kind Replacement, was added to provide clarity to other sections of the rules, and also reflected how DEQ historically applied this term.
3. Section 003.31, Material Modification, was amended to provide clarity on when public water systems must comply with the requirements of Idaho Code § 39-118, submittal of plans and specifications, and associated engineering planning and assessment. The amendment also provided context on how DEQ had historically applied this definition.
4. Section 003.74, Substantial Modification, was amended to provide the specific date of May 8, 2009, which was when the definition of Substantially Modified became effective. The amendment also provided context to how DEQ had historically applied this definition.
5. Section 007.04, regarding billing of fee invoices, was amended to allow DEQ to deliver electronic drinking water fee invoices.
6. Section 302.03.c, regarding significant deficiencies in a distribution system, was amended to focus on minimum system pressure of 20 psi. DEQ considered this operational requirement of greater potential public health significance than the current rule. Primacy requirements for the Safe Drinking Water Act required the eight significant deficiencies outlined in section 302.03 be specified in state rules.
7. Section 350, regarding control of lead and copper, incorporated the recent Lead and Copper Rule Revisions finalized by EPA. This updated incorporation allowed DEQ to apply for primacy of the Lead and Copper Rule Revisions from EPA and maintain state oversight of the Safe Drinking Water Act.
8. Section 450, regarding the Use of Non-Centralized Treatment Devices, was reorganized and streamlined to help facilitate a smoother application process for these devices.
9. Section 554.04, regarding Water Operator License Upgrade Allowance, was added to allow drinking water distribution system operators a 12-month period to meet increased licensure requirements triggered solely by population increases.

DISCUSSION:

Senator Taylor asked if the waivers from sampling requirements added to section 004.01.a, page 421, were based on previous analytical data. **Mr. Fortunati** responded those changes were moved from a prior section of the rules, and DEQ consolidated all waivers, variances, and exemptions into section 004.

MOTION:

Chairman Burtenshaw moved to approve **Docket No. 58-0108-2301**. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

Rules Regulating the Idaho Pollutant Discharge Elimination System Program (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. Mary Anne Nelson, Surface and Wastewater Division Administrator, DEQ, referred the Committee to the 2024 Senate Resources and Environment Committee Pending Rules Review Book posted on the Idaho Legislature website, starting on page 550. She explained DEQ had full authority for the Idaho Pollutant Discharge Elimination System (IPDES) program. This docket updates federal regulations incorporated by reference with the Federal Register as of July 1, 2023. Summary of changes were as follows:

- Section 000, language was reduced to simply reference the relevant Idaho Code authorities.
- Section 002.02, confidentiality of records was removed as it was duplicative of Idaho Code § 74-114.
- Section 003.01, Incorporation by Reference was removed as it was not necessary.
- DEQ updated dates for incorporation by reference to reflect the CFR as of July 1, 2023. There were four federal rules changed between July 1, 2020, the date being replaced, and July 1, 2023. These were in sections 003.01.t, 003.01.w, and 003.01.z.
- In section 003.01.bb, DEQ updated the definition of Waters of the U.S. to reflect Idaho's current position on this definition.
- Two unnecessary sections were removed at the direction of the Department of Financial Management, section 005, Written Interpretations, and section 006, Office Hours, Mailing Address, and Street Address.
- Definitions in section 010. were removed that were already in Idaho Code, other chapters, or not used within this rule chapter, and definitions that already existed in CFR were updated to reflect the appropriate CFR reference rather than repeat the definition.
- Section 010.44 added the definition of Integrated Planning as requested by the Association of Idaho Cities.
- Section 105.20 included the addition of items required for an integrated plan application submittal.
- Section 110, Fee Schedule Changes, an effective date for payment of annual fees was removed, the date for billing and expected payment was changed to reflect how the process works effectively with municipal fiscal year planning, and language regarding payment plan requirements removed strict language and replaced broader language.
- Section 370.04, Pretreatment Standards, and section 380.03, Sewage Sludge, were moved to section 003.02, Interpretation of Terms.
- Section 370.05, Pretreatment Standards, was removed. This subsection indicated exceptions from incorporation by reference.

She provided a summary of the negotiated rulemaking process for this rule. This rulemaking did not impose or increase any fees. DEQ did not anticipate additional costs to the regulated community due to these changes. These rules regulated an activity regulated by the federal government but were neither broader in scope nor more stringent than those imposed by the federal government.

MOTION: **Chairman Burtenshaw** moved to approve **Docket No. 58-0125-2301**. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

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

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Friday, February 09, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>RS 31185</u>	Relating to Invasive Species	Senator Burtenshaw
<u>RS 31220</u>	Relating to Public Utilities	Norm Semanko
<u>20-0305-2301</u>	Navigable Waterways Mineral Leasing in Idaho (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule No further testimony will be taken.	Eric Wilson, Resource Protection and Assistance Bureau Chief, Idaho Department of Lands
<u>20-0101-2301</u>	Rules of Practice and Procedure Before the State Board of Land Commissioners (ZBR Chapter Rewrite) - Proposed Rule	Dustin Miller, Director, Idaho Department of Lands
<u>20-0501-2301</u>	Rules Pertaining to the Recreational Use of Endowment Land (New Chapter) - Proposed Rule	Todd Wernex, Recreation Program Manager, Idaho Department of Lands

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Friday, February 09, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senators Guthrie and 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 31185 **Relating to Invasive Species. Senator Burtenshaw** stated this legislation tightened statute related to controlling quagga mussels in the state of Idaho. **RS 31185** amended Idaho Code § 22-1904 to further define "conveyance" as "retail or wholesale products, or water known to carry or have a reasonable possibility of carrying invasive species." This expanded inspection for invasive species to include anything known to have carried water or to have a reasonable possibility of carrying invasive species. It also created a new section of code requiring immediate removal of vegetation and water drainage from conveyances. It required nonresidential vehicles to carry an invasive species sticker and to be inspected at a watercraft station prior to launch. It provided up to twenty percent of the Idaho Invasive Species Fund annual revenue to counties, cities, and other local entities to reimburse the costs necessary to operate watercraft inspection stations.

MOTION: **Senator Harris** moved that **RS 31185** be sent to print. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

RS 31220 **Relating to Public Utilities. Norman Semanko**, attorney, Parsons Behle and Latimer, explained this legislation clarified that the jurisdiction of the Idaho Public Utilities Commission (Commission) did not include corporations or others owning, controlling, or operating a water system which delivered water to a single entity that was not subject to regulation by the Commission. It also confirmed that homeowners associations, cooperative associations, and water districts were not subject to regulation by the Commission.

MOTION: **Senator Schroeder** moved that **RS 31220** be sent to print. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

**DOCKET NO.
20-0305-2301**

Navigable Waterways Mineral Leasing in Idaho (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule. No further testimony was taken. **Eric Wilson**, Resource Protection and Assistance Bureau Chief, Idaho Department of Lands (IDL) presented for further discussion. **Docket No. 20-0305-2301** was presented in Committee on February 5, 2024 and testimony was heard at that meeting. **Mr. Wilson** addressed some of the concerns that were raised at the earlier meeting. He referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website, page 151. He explained there was a statute change that occurred in 2020, which required that all rents be treated as prepaid royalties. In section 030.01 the minimum annual rental increased from \$160 to \$500, but the minimum annual royalty in section 030.02, where the commercial lessee paid \$500 per year and all other lessees paid \$340 per year, was deleted. The original \$160 minimum annual rental added to the deleted \$340 minimum annual royalty equaled \$500. This simplified the rules, incorporated the statute change, and did not increase rents overall.

DISCUSSION:

Senator Den Hartog asked if there was a maximum annual rental. **Mr. Wilson** responded that the annual rental depended on the type of lease, the size of the property, and the activities that would be taking place on the property, so annual rentals could be over \$500. **Senator Taylor** asked for the difference between exploratory and casual as noted on page 150, section 016.04. **Mr. Wilson** responded the definition of casual exploration was in statute in the mineral leasing chapter, and this meant using dredges that were five inches or less in intake diameter and operated in navigable rivers.

MOTION:

Chairman Burtenshaw moved to approve **Docket No. 20-0305-2301**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
20-0101-2301**

Rules of Practice and Procedure Before the State Board of Land Commissioners (ZBR Chapter Rewrite) - Proposed Rule. **Dustin Miller**, Director, IDL, referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website, starting on page 59. He explained these rules govern the practice and procedure in contested cases before the State Board of Land Commissioners and IDL. He explained that following Executive Order 2020-01, Zero-Based Regulation, this rule chapter was scheduled to be repealed and replaced in 2022 for review during the 2023 legislative session. During the 2022 legislative session, House Bill 629 created the Office of Administrative Hearings (OAH), and IDL paused rulemaking on this chapter until OAH was operational. He provided a summary of the negotiated rulemaking process for this chapter. IDL worked closely with the Office of Administrative Rules, the Office of Administrative Hearings, and the Office of the Attorney General to dramatically simplify this chapter by incorporating the Attorney General's rules by reference. After OAH promulgated their rules of practice and procedure, the Idaho State Board of Land Commissioners and IDL would automatically default to using OAH rules for contested cases.

MOTION:

Senator Schroeder moved to approve **Docket No. 20-0101-2301**. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
20-0501-2301**

Rules Pertaining to the Recreational Use of Endowment Land (New Chapter) - Proposed Rule. **Todd Wernex**, Recreation Program Manager, IDL, referred the Committee to the 2024 Resources and Environment Committee Pending Rules Review Book on the Idaho State Legislature website, starting on page 153. He explained changes to this chapter were the result of Senate Bill 1049, which passed in 2023. Senate Bill 1049 required rulemaking to specify prohibited activities that were subject to a warning ticket for minor first offenses, with second violations under the statute being punished with an infraction and \$250 fine. He provided a summary of the negotiated rulemaking process for these rules. He noted IDL received several written comments and good participation at their meetings. They engaged with the Idaho Cattle Association, Idaho Recreation Council, Idaho Outfitters and Guides, Idaho Fish and Game, other groups, and private citizens.

DISCUSSION:

Senator Burtenshaw asked if the requirement noted in section 020.05.a on page 156 for solid human waste to be buried in a hole at least six inches deep was enough. **Mr. Wernex** responded that this was common practice for the Forest Service and other land management agencies. **Senator Burtenshaw** referred to section 020.05.b on the same page and asked how someone was allowed to build a septic system on endowment land when the statute stated restroom facilities must be temporary. **Mr. Miller** responded that this operation, which was a glamping operation near Island Park, was authorized under a land use permit. Working with the health district, it was determined that given the number of people expected to utilize that facility, a septic system was necessary. In response to a follow up question from Senator Burtenshaw, **Mr. Miller** confirmed sections 020.05.a and 020.05.b addressed temporary camping for 14 days or less, not commercial operations. **Senator Schroeder** asked if a member of the general public could easily find a permit and compare the parameters listed in the permit with what was going on the ground. **Mr. Miller** responded that those documents were available upon request of anyone that wanted to see them.

TESTIMONY:

Peyton Nunes, Benn Brocksome and Associates, representing Idaho Sportsmen, testified in support of **Docket No. 20-0501-2301**. She stated that Idaho Sportsmen submitted a letter of support and participated in all of the negotiated rulemaking.

MOTION:

Chairman Burtenshaw moved to approve **Docket No. 20-0501-2301**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

ADJOURNED:

There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:05 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

AMENDED AGENDA #4
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 12, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1279</u>	NAVIGATIONAL ENCROACHMENTS - Amends existing law to define a phrase.	Senator Herndon
<u>RS 31145</u>	Joint Memorial, Columbia-Snake River System	Senator Harris
<u>RS 31315C2</u>	Relating to Grazing Leases	Senator Harris
<u>RS 31168</u>	Relating to Irrigation Districts, Idaho Code § 43-712	Paul Arrington, Executive Director, Idaho Water Users Association
<u>RS 31250</u>	Relating to Irrigation Districts, Idaho Code § 43-109	Paul Arrington
<u>RS 31232</u>	Relating to Rights-Of-Way	Paul Arrington
<u>RS 31295C1</u>	Relating to Fish and Game	Senator Okuniewicz
<u>RS 31235</u>	Concurrent Resolution, Clean and Safe Nuclear	Senator Lent
<u>RS 31239C1</u>	Relating to Water	Senator Burtenshaw

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
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Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 12, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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.

S 1279 **NAVIGATIONAL ENCROACHMENTS - Amends existing law to define a phrase.** **Senator Herndon** explained this legislation added a clarifying definition to Idaho Code § 58-1312 concerning the 1974 Lake Protection Act. The definition of the phrase "has not been modified" was added to state that the overall footprint of the encroachment on the lake bed had not changed in dimension, orientation, height, or location. This allowed owners to repair and maintain encroachments on the lake bed that existed prior to 1974 without having to obtain a new permit and pay for the permitting and application process. His opinion was that this was the intention of the legislature when this section of code was amended in 2006. He reviewed with the Committee his handout of the House Resources and Conservation and Senate Resources and Environment Committee meeting minutes that discussed the 2006 amendment. (Attachment 1) He also reviewed the results of a recent court case where the Idaho Department of Lands (IDL) used a dictionary definition for the term modified, resulting in the court finding that a homeowner modified his pre-Lake Protection Act structure. (Attachment 1)

DISCUSSION: **Senator Schroeder** shared his appreciation for Senator Herndon's thoroughness in drafting and researching this legislation and expressed his support for **S 1279**. **Senator Herndon** agreed that this was an example of how important it was for the legislature to include clear definitions when composing legislation. **Senator Semmelroth** asked if this proposed legislation had already been enacted when the court decided the case example, if it would have changed the outcome. **Senator Herndon** replied that this was unknown. He added that IDL believed this legislation would not have changed that particular outcome, because the location of the encroachment changed. **Chairman Burtenshaw** asked for more description on changes in height, such as when the encroachment footprint did not change, but someone built a house on their dock. **Senator Herndon** explained that this legislation stated the height of the encroachment could not be expanded.

TESTIMONY: **Eric Wilson**, Resource Protection and Assistance Bureau Chief, IDL, did not offer an opinion on **S 1279**, but offered some items to consider related to how proposed changes might be contrary to how nonconforming uses had been handled in the past, and how this might impact neighbors. His opinion was that the number of encroachments dating before the 1974 Lake Protection Act was small.

DISCUSSION: **Chairman Burtenshaw** asked how many people had documentation of their dock from 50 years ago. **Mr. Wilson** responded that IDL had seen family photos and other similar evidence be used to establish that a dock existed before 1974. **Chairman Burtenshaw** asked if he did not have photos from 50 years ago, what he could use for documentation. **Mr. Wilson** replied that there had to be some substantive documentation, which could be family photos, other written records, county records, or aerial photography.

Senator Herndon stated that in his experience as a general contractor in Bonner County, he worked on encroachments that predated the 1974 Lake Protection Act and he believed many of these could be maintained to last for many generations. He believed the fundamental issue addressed by **S 1279** was one of fairness and creating consistency with the legislature's intention when it enacted the Lake Protection Act in 1974, and when it amended the Lake Protection Act in cooperation with IDL in 2006.

MOTION: **Senator Harris** moved to send **S 1279** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

RS 31145,
RS 31315C2,
RS 31168,
RS 31250,
RS 31232,
RS 31295C1,
RS 31235,
RS 31239C1

Senator Den Hartog moved that **RS 31145 Joint Memorial, Columbia-Snake River System, RS 31315C2 Relating to Grazing Leases, RS 31168 Relating to Irrigation Districts, Idaho Code § 43-712, RS 31250 Relating to Irrigation Districts, Idaho Code § 43-109, RS 31232 Relating to Rights-Of-Way, RS 31295C1 Relating to Fish and Game, RS 31235 Concurrent Resolution, Clean and Safe Nuclear, and RS 31239C1 Relating to Water**, be sent to print. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 1:54 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

first gave an overview of the seven pieces of IDL legislation before the Committee today: six have to do with the Lake Protection Act; one with timber sales on state-owned land.

Mr. Bacon presented RS15336C1, legislation relating to navigational and nonnavigational encroachments, and amending section 58-1312 Idaho Code to provide requirements for the permitting of existing navigational or nonnavigational encroachments. He said the original statute gave free permits to landowners who filed by the end of 1974. RS15336C1 allows landowners who have some proof that an encroachment existed prior to 1974 to still be grandfathered without a fee. It will facilitate IDL management, and reduce the number of incidents where the department is asked to mediate encroachment issues.

QUESTIONS/DISCUSSION: Rep. Wood asked for clarification as to what constitutes modification (line 18). Mr. Bacon said the intent was modification of the footprint of the encroachment, which meant size and shape. It is assumed that landowners will maintain and repair improvements.

MOTION RS15336C1: A motion was made by Rep. Roberts to recommend RS15336C1 to printing.

VOTE RS15336C1: The motion to recommend RS15336C1 to printing passed by voice vote.

RS15337: George Bacon, Operations Chief South, Idaho Department of Lands (IDL), presented RS15337 relating to navigational and nonnavigational encroachments. It amends section 58-1302 Idaho Code to revise a definition and make technical corrections. Section 58-1302 determines how far an encroachment can protrude into a lake. It now is determined by the customary size of a boat in a lake; RS15337 allows the line of navigability to be determined by the length of existing legally permitted encroachments.

QUESTIONS/DISCUSSION: Rep. Saylor asked if RS15337 was in any way relevant to the high water mark at Sanders Beach in Coeur d'Alene. Mr. Bacon said Sanders Beach was an unrelated problem.

MOTION RS15337: A motion was made by Rep. Mitchell to recommend RS15337 to printing.

VOTE RS15337: The motion to recommend RS15337 to printing passed by voice vote.

RS15338: George Bacon, Operations Chief South, Idaho Department of Lands (IDL), presented RS15338 relating to navigational and nonnavigational encroachments. It amends section 58-1307 Idaho Code to revise fee and cost provisions for certain permits, and to authorize the Board of Land Commissioners to charge specified applicants the actual costs of processing applications in the event that actual costs exceed the non-refundable fee. Mr. Bacon said applicable fees have not been changed in thirty-two years. He referred to a chart projecting revenues and expenses. (Exhibit 1) With the recommended fee increase, the revenue deficit could be reversed by 2010.

QUESTIONS/DISCUSSION: Rep. Moyle asked what the impact would be to the general fund. Mr. Bacon said none. Currently the fees IDL collects are less than those allocated to administer the program. The program is now a net drain on the general fund. Mr. Bacon said IDL is considering bringing

George Bacon
worked for IDL

What does
modification
mean

or reconstructed without a permit. Mr. Bacon said maintenance is expected to occur, and is not a permitted activity. The IDL permit process applies if the "footprint" is changed—that is, if construction is larger than the original improvement.

Rep. Wood asked for a definition of "navigable." Mike Murphy, Head, Navigable Waters Program, IDL, gave examples of navigable and non-navigable construction by way of providing a definition. Rep. Wood asked for clarification of IDL's authority. Mr. Murphy said IDL has jurisdiction over the beds of lakes and navigable streams in Idaho and, in the case of lakes, where encroachments protrude onto the lake but are not related to moorage.

Rep. Roberts asked if a permit is needed to replace or modify a retaining wall constructed to prevent erosion. Mr. Murphy said if it is maintained or replaced without modification, no permit is needed. Rep. Roberts asked if a permit is required for a retaining wall constructed since February 1, 1975 that has now decomposed to the point where a new wall is needed. Mr. Murphy said assuming there was a permit, a new permit would not be required.

Rep. Eskridge asked if the Corp of Engineers is involved, if the permit is required from IDL or the Corp. Mr. Bacon said if the Corp is involved, the Corp would have permitting jurisdiction.

Rep. Barrett asked what change is actually being made with H524. Mr. Bacon said the crux of the legislation is to allow encroachments that were constructed before the LPA permit deadline to be grandfathered under the LPA.

Rep. Eskridge asked if IDL could require an encroachment constructed prior to 1974 to be removed if it isn't properly permitted. Mr. Bacon said technically yes; but it is unlikely. H524 makes provision to allow a grandfathered permit.

MOTION H524:

A motion was made by Rep. Field to send H524 to the floor with a DO PASS recommendation.

QUESTIONS/COMMENTS: Chairman Stevenson asked if a footbridge across a canal belonging to an irrigation district requires a permit, as canals sometimes are classified as navigable waters. Mr. Bacon said if IDL has jurisdiction over the canal, the permitting process might apply. Rep. Stevenson said wetlands are considered waters of the U.S. and navigable waters statutes apply. Mr. Bacon said that is correct, but IDWR has jurisdiction of the water. IDL has jurisdiction over the beds of lakes and not the waters.

Rep. Roberts asked if IDL jurisdiction occurs within Bureau of Reclamation projects. Mr. Bacon said it does not unless the Bureau gives up their rights to it. There may be a case near Twin Falls where the Bureau will ask IDL to issue permits. Rep. Roberts asked about jurisdiction at specific sites including Lucky Peak, Cascade Reservoir, and American Falls. Mr. Bacon said the IDL permitting process didn't apply to them but would, for example, apply to Payette Lake. IDL has jurisdiction over reservoirs; but Payette Lake is a natural lake.

MINUTES

SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: March 10, 2006

TIME: 1:30 p.m.

PLACE: Room 433

MEMBERS: Chairman Schroeder, Senators Cameron, Burtenshaw, Williams, Brandt, Little, Langhorst

ABSENT/
EXCUSED: Vice Chairman Pearce, Senator Stennett

CALL TO
ORDER: Chairman Schroeder called the meeting to order at 1:35 p.m.

MINUTES: Senator Brandt moved to approve the minutes from March 6. Senator Burtenshaw seconded the motion. The motion carried by a voice vote.

Senator Burtenshaw moved to approve the minutes from March 3. Senator Brandt seconded the motion. The motion carried by a voice vote.

APPOINTMENT: Senator Brandt moved to approve the appointment of Douglas Hancey, whose hearing was held on March 8, to the Park and Recreation Board. Senator Burtenshaw seconded the motion. The motion carried by a voice vote. Senator Hill will sponsor the appointment on the floor.

↓
H 524

George Bacon, Operations Chief, Idaho Department of Lands (IDL), presented H 524, regarding Encroachments, navigational permits. He introduced Mike Murphy, Program Manager, Navigable Waters Program, who was present to answer questions. The Lake Protections Act, passed in 1974, set out regulations for property owners with encroachments on navigable lakes. People who already had encroachments, such as docks, at that time were allowed a free permit. Over the years during regulatory enforcement, individuals who had not obtained their free permit prior to the Act were still allowed to as long as they could prove that the encroachments existed prior to the Act. More than twenty years later, many properties have changed hands. This bill would allow a free permit for any encroachment which has not changed its footprint since 1974 as long as there is proof, such as photographs, to back it up. Permits are a one-time payment only, if the encroachment has not changed.

Senator Langhorst asked about the procedure and cost for adding an encroachment after 1974. George Bacon said there is a \$50 permitting fee to be paid prior to construction, and the encroachments must conform to guidelines on size and length.

MOTION: Senator Little moved H 524 to the floor with a do pass recommendation. Senator Brandt seconded the motion. The motion carried by a voice

~~CONF~~
Court Affirms IDL's plain language interpretation -
which is contrary to Statute's original intent
Kaseburg v. State, Bd. of Land Comm'rs, 154 Idaho 570, 578, 300 P.3d 1058, 1066 (2013)

(citations omitted).

IDL also meets the second element because its interpretation that the addition of rocks to the lakebed and log structure sometime in 2006-2007 constitutes a modification is reasonable and not contrary to the express language of the statute. The word "modify" or "modified" in this context means "to make minor changes in" or "to make less extreme." <https://www.merriam-webster.com/dictionary/modify> (last visited October 6, 2023). Under the plain language of the statute, Mr. Wilson modified the log crib. The court finds IDL's interpretation of I.C. § 58-1312 to be reasonable and not contrary to the express language. The court does not find the statute to be ambiguous. Therefore, the court must defer to IDL's interpretation and uphold its findings that Mr. Wilson modified the pre-LPA structure.

The court will not substitute its judgment for IDL on questions of the weight of evidence regarding questions of fact. Neither party is contesting IDL's determination that the structure existed prior to 1974. The question before the court is whether Mr. Wilson modified the structure. The court finds substantial and competent evidence supporting IDL's determination that he did. Idaho Department of Land's decision to deny Mr. Wilson's application is not erroneous under I.C. § 67-5279.

V. ATTORNEY FEES

Mr. Wilson requested attorney fees under I.C. §§ 12-117(1) and 12-117(2) which provide for an award of attorney fees to the prevailing party. Mr. Wilson did not prevail in this matter and therefore is not entitled to attorney fees.

VI. CONCLUSION AND ORDER

NOW, THEREFORE, based on the foregoing, IT IS HEREBY ORDERED THAT

MEMORANDUM DECISION AND ORDER AFFIRMING RESPONDENT'S DECISION - 8

ENCL 10/17/23 · Bonner County CV09-23-0254

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 14, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION:	Acknowledgement of Page - Zack Holt	Senator Burtenshaw
MINUTES APPROVAL:	Minutes of January 29, 2024	Senator Semmelroth Senator Guthrie
MINUTES APPROVAL:	Minutes of January 31, 2024	Senator Taylor Senator Den Hartog
<u>H 402</u>	INJECTION WELLS - Amends existing law to remove and revise provisions regarding class II injection wells.	Rep. Nelsen
<u>H 404</u>	RECORDS - Amends existing law to provide an exemption from disclosure for certain records regarding wildlife.	Rep. Petzke
<u>S 1341</u>	WATER - Adds to existing law to establish provisions regarding common ground water supply for the Eastern Snake Plain Aquifer.	Senator Burtenshaw

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 14, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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.

PRESENTATION: **Acknowledgement of Page - Zack Holt.** **Mr. Holt** shared with the Committee how much he enjoyed his experience as a Senate Page. He thanked the Committee for helping him, especially Chairman Burtenshaw with his senior project and Senator Adams with planning his future. He said his conversations with Committee members led him to change his plans for after high school. He thought he might go to college while also learning different trades.

DISCUSSION: **Chairman Burtenshaw** admitted to encouraging Mr. Holt to go to college. **Senator Adams** thanked him for his good sense of humor. **Senator Okuniewicz** asked if he had changed his mind about being a welder. **Mr. Holt** responded no, that he still intended to earn certifications for welding. **Senator Harris** asked what his biggest surprise was about working as a Senate Page. **Mr. Holt** responded that his biggest surprise was how much the Senators' job was like school, because they had to get to the Senate at a certain time every morning, they had to be at different meetings at certain times, which were like their classes, the meetings took attendance, they had lunch time, and they had homework.

MINUTES APPROVAL: **Senator Semmelroth** moved to approve the Minutes of January 29, 2024. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Taylor** moved to approve the Minutes of January 31, 2024. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

H 402 **INJECTION WELLS - Amends existing law to remove and revise provisions regarding class II injection wells.** **Representative Nelsen** explained the U. S. Environmental Protection Agency (EPA) had primacy and control of these wells, and this legislation aligned Idaho Code § 39-42 with the EPA's regulations. He shared that Idaho formally applied for primacy in permitting and regulating class II injection wells, but the EPA denied the request. **Tim Luke**, Water Compliance Bureau Chief, Idaho Department of Water Resources (IDWR) provided some additional history behind this legislation and on injection wells in Idaho. He explained that IDWR updated their administrative rules and governing statutes to support a primacy revision package to the EPA. As the EPA denied the primacy package, the updated language was no longer relevant. This legislation removed references to class II injection wells, removed some obsolete references to dates, and added some clarifying language.

DISCUSSION: **Chairman Burtenshaw** asked if there would be a time when Idaho could take primacy over class II injection wells. **Mr. Luke** responded that IDWR would have to repeat the application and rulemaking processes, but he did not see a need, given the low demand for these types of wells in Idaho.

MOTION: **Senator Taylor** moved to send **H 402** to the floor with a **do pass** recommendation. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

H 404 **RECORDS - Amends existing law to provide an exemption from disclosure for certain records regarding wildlife.** **Rep. Petzke** explained the intent of this legislation was to prevent individuals from obtaining the precise location of wildlife through a public records request. This was to address issues such as fair chase and hunter harassment. He highlighted that this legislation included camera location data, as the Idaho Department of Fish and Game (IDFG) operated a large collection of trail cameras across Idaho. He noted that access to the exact locations of these cameras would allow hunters to scout via IDFG cameras. He also noted that the legislation used the term "terrestrial wildlife", to provide a broad scope of wildlife covered by this legislation. This bill was supported by all major sportsmen's groups, by IDFG, and by agriculture groups.

TESTIMONY: **Bill London**, past president of the Idaho Wild Sheep Foundation, **Benn Brocksome**, on behalf of Idaho Sportsmen, and **Ellary TuckerWilliams**, Legislative and Community Engagement Coordinator, IDFG, testified in favor of **H 404**. **Mr. London** expanded on how this bill maintained ethical hunting, while also respecting those who needed to gather and distribute information for wildlife research and management. **Mr. Brocksome**, shared that the Idaho Sportsmen Board voted unanimously to support this legislation. **Ms. TuckerWilliams** provided some history leading to this legislation and additional details. She explained **H 404** added a section to Idaho Code § 74-108 that gave IDFG and other public agencies the ability to deny public records requests that identified telemetry frequencies, remote camera locations, or the precise and specific location of any individual terrestrial wildlife, including but not limited to, global positioning systems, telemetry, or remote camera data. This legislation did not apply to records identifying generalized locations, such as migration data. She shared that many Western states, including Wyoming, Colorado, New Mexico, and Utah, had similar language. She believed this legislation would help IDFG effectively manage wildlife populations while also demonstrating Idaho's commitment to fair chase.

MOTION: **Senator Harris** moved to send **H 404** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

S 1341 **WATER - Adds to existing law to establish provisions regarding common ground water supply for the Eastern Snake Plain Aquifer.** **Chairman Burtenshaw** explained this legislation provided clarification and expansion of the area of common ground water supply in the Eastern Snake River Plain.

He referred the Committee to two handouts. The first was a three dimensional view of the Eastern Snake River Aquifer (ESPA). (Attachment 1) He shared that the Snake River Aquifer was one of the largest, most productive aquifers in the United States. It covered 10,800 million square miles and stretched from Ashton, Idaho in the southeast, to King Hill, Idaho in the southwest. It contained an estimated 1 billion acre feet of water. His second handout showed an outline of the ESPA in green, which was the current ESPA model boundary, and a revised, expanded boundary in black that included other tributaries that contributed to the ESPA. (Attachment 2) He shared that the ESPA had declined over the years and in dry years, especially when back to back, the aquifer became stressed. This

legislation attempted to facilitate the ability of the aquifer to produce in perpetuity.

Chairman Burtenshaw explained **S 1341** allowed for the conjunctive management of surface and groundwater resources to determine their impact on the ESPA. It allowed the Director of the Idaho Department of Water Resources (IDWR) to expand the area of common groundwater supply to the ESPA to include tributary basins, as illustrated in Attachment 2. He clarified that this legislation excluded areas designated as a critical groundwater area or a groundwater management area with approved groundwater management plans, unless the IDWR Director determined that the existing plan was insufficient to manage the effects of groundwater withdrawals on the ESPA. He reviewed the written notification and hearing requirements, and opportunities for written and oral comments, included in this legislation. **Chairman Burtenshaw** expected that it would be a long process to measure and understand all contributions and withdrawals to the ESPA.

DISCUSSION:

Senator Okuniewicz asked what kind of checks there would be to keep water users who were outside the traditional area from being drawn into the new management area by other users. **Chairman Burtenshaw** responded that everyone within the new boundary had a mitigation responsibility. He added that some of those outside the traditional boundary already had mitigation plans, and if those plans were sufficient to replace the amounts withdrawn from the aquifer, then they would not change. **Senator Okuniewicz** asked if he had a farm inside the traditional boundary, would this legislation allow him to farm additional acres, using water captured from outside the traditional boundary. **Chairman Burtenshaw** responded that it would not, and that water rights could not be expanded.

Senator Taylor asked if a groundwater area already existed, such as the Big Wood River Groundwater Users Association, would they continue their water management practices unless it was proven that their practices were causing harm downstream. **Chairman Burtenshaw** responded that if, after the entire study of withdrawals and contributions to the ESPA was completed, their mitigation plans were enough, then they would be left alone, but if they mitigated too much, they could reduce mitigation, and if they were not mitigating enough, then mitigation could increase. **Senator Taylor** stated he believed the Big Wood River Groundwater Users Association stood as a model for users throughout the state. **Chairman Burtenshaw** agreed.

Senator Guthrie posed an extreme and asked if this legislation was enacted, the state grew, and the drought conditions continued, could groundwater users be curtailed completely. **Chairman Burtenshaw** responded that everyone's water right would be protected, but when the Director of IDWR called for water curtailment, this was determined by the date a water right was recorded, with the most recently recorded rights being the first to be curtailed.

TESTIMONY:

August Christensen, Mayor, City of Driggs, testified against **S 1341**. She shared that she had only heard about this legislation a few days ago, and neither she, the Teton Basin Water User Association, nor any of the farmers or canal companies in her area had been asked to participate in any conversations regarding changes to the Comprehensive Aquifer Management Plan. She did not agree that water management should be solely at the discretion of the Director of IDWR. She requested careful thought and planning on this matter.

Paul Arrington, Director, Idaho Water Users Association, testified in favor of **S 1341**. **Mr. Arrington** provided some background on what led to this legislation. He recognized that although there was a firm understanding of the ESPA, there was limited understanding of the connection and impact of tributaries to the ESPA. He stated this legislation changed the area of common ground water supply to include tributary basins, as previously noted. The rest of the legislation provided a deliberative process for including tributaries at some point in time. He noted that this legislation provided opportunities for notification and public engagement. He compared the deliberative process outlined in this legislation to the alternative of a compulsory and immediate expansion to include tributaries.

DISCUSSION:

Senator Harris asked if Idaho cites and counties were involved in the discussions regarding **S 1341**. **Mr. Arrington** responded that they engaged the Association of Idaho Cities, who shared concerns about a compulsory expansion that brought in every tributary, and he had conversations with the Idaho Association of Counties, but did not receive any comments from them. **Senator Semmelroth** asked if the language in subpart 2, regarding groundwater management areas, applied to areas with tributaries. **Mr. Arrington** responded that they did.

Senator Guthrie requested clarification that this legislation expanded the area of inclusion in the management model, with consequences up to and including total curtailment. **Mr. Arrington** clarified that it did, and he spoke to the importance of users working together to find solutions. **Senator Den Hartog** asked who was involved in the working group that helped to create this legislation and the length of time it had been in development. **Mr. Arrington** responded that this issue originally came before this Committee in 2016. He added that last year, talks about this legislation among water user organizations started to coalesce around the idea of compulsory and immediate expansion to include tributaries. Due to feedback from stakeholders, they revised compulsory and immediate expansion to a gradual process that included further study. Into this year and over the last three to four weeks, they worked on the language that resulted in the language in **S 1341**.

Senator Okuniewicz asked if there was a potential risk that users would lose their water claim. **Mr. Arrington** responded that Idaho's Constitution, statutes, and case law determined the order of priority in the line of users for water appropriation. He added that with increased knowledge and understanding of how water supplies interact with each other, according to the law of prior appropriation, he could argue that the Constitution, statutes, and case law required consideration of all parties, because the law states you have to take action when a senior right was impacted by a junior right. **Senator Okuniewicz** asked if they did not pass this legislation, if there was a potential for people inside the model area to have a claim to groundwater that was outside the model area. **Mr. Arrington** responded there was a chance of this and there were statutes that spoke to the ability of groundwater calls.

Senator Adams asked if three to four weeks was enough time to develop this legislation, and how much time population centers would have to review and understand the impact changes in this legislation had on them. **Mr. Arrington** responded that while the language was coalesced into this legislation about three or four weeks ago, the issue was not new and especially not new to anyone in the Eastern Idaho Water Rights Coalition. He reiterated that if this legislation passed, nothing was going to change immediately for any tributary basin. This legislation initiated a process, which was step one of many steps.

TESTIMONY:

Representative Nelson testified in favor of **S 1341**. His view was that the aquifer was over-appropriated. He shared multiple concerns about what might happen with the current agreement left in place, and expanded on the benefits of affected parties working together to find solutions.

Matt Weaver, Director, IDWR, testified in favor of **S 1341**. **Mr. Weaver** presented to provide the view of the IDWR Director. He acknowledged that this was a difficult issue. He recognized the political leaders that were on the forefront of this challenge. He stated that despite their best efforts, this resource continued to decline. He believed the issue was a matter of fairness. He believed this legislation addressed the issue of fairness, which would help resolutions move forward. He believed groundwater and surface water users administering water in the southeast corner of the state all recognized the need to sustainably manage water resources. He believed that a group of groundwater users were being held responsible for the declines in the ESPA, but some of those declines were due to water users outside of the current boundary. He thought there were a million acres of groundwater irrigating the Eastern Snake River Plain by participants, but about 500,000 acres of groundwater impacting the Snake River outside of the boundary that were not participating. He thought this was more measured legislation than what he had seen in the past, because it would update the area of common groundwater to reflect the best available science and understanding of the resource.

DISCUSSION: **Senator Guthrie** spoke to the issue of fairness and asked if he was going to be administered with part of the ESPA as a surface water user in Portneuf River Basin, if he could legitimately make a call for the groundwater in the East Snake Plain that was already subject to administration. **Mr. Weaver** responded that as a senior surface water user, he could make a delivery call against junior groundwater users or junior surface water users that were affecting his water source, and through that delivery call, IDWR would determine what the group of water rights were that would be subject to that delivery call mitigation requirement.

Chairman Burtenshaw expanded on the rule of 50, fairness, and the purpose of this legislation. **Senator Den Hartog** asked if this change was made, would it lead to less over-appropriation. **Chairman Burtenshaw** responded that it absolutely would. He added that water rights connected to the ESPA were connected in many ways and each had an impact, but this legislation reflected a desire to not mitigate or punish anyone, but to understand the resource and manage it into perpetuity.

MOTION: **Senator Semmelroth** moved to send **S 1341** to the floor with a **do pass** recommendation. **Senator Taylor** seconded the motion.

DISCUSSION: **Senator Harris** and **Senator Okuniewicz** supported the motion, but reserved their right to ask more questions and change their mind.

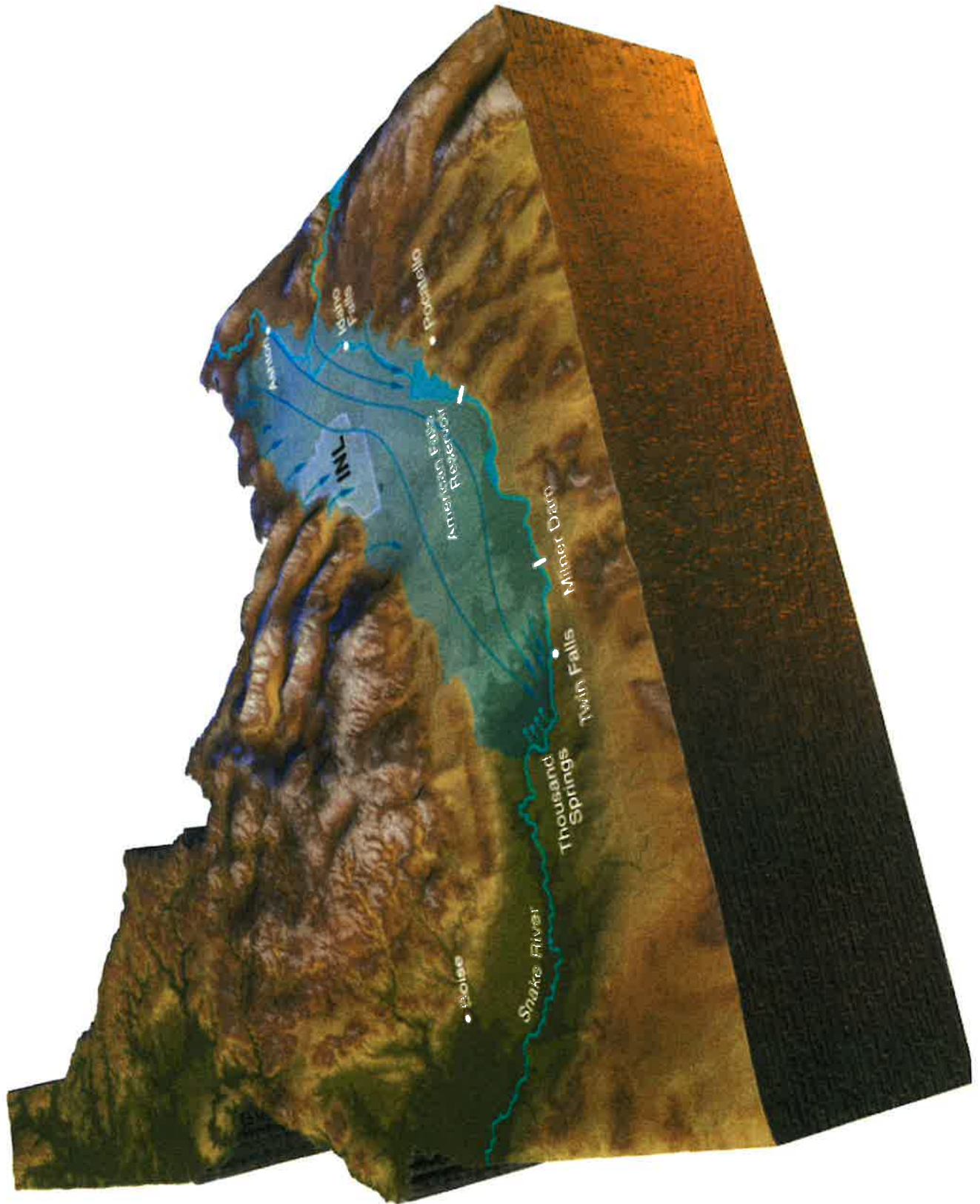
VOICE VOTE: The motion to send **S 1341** to the floor with a **do pass** recommendation carried by **voice vote**.

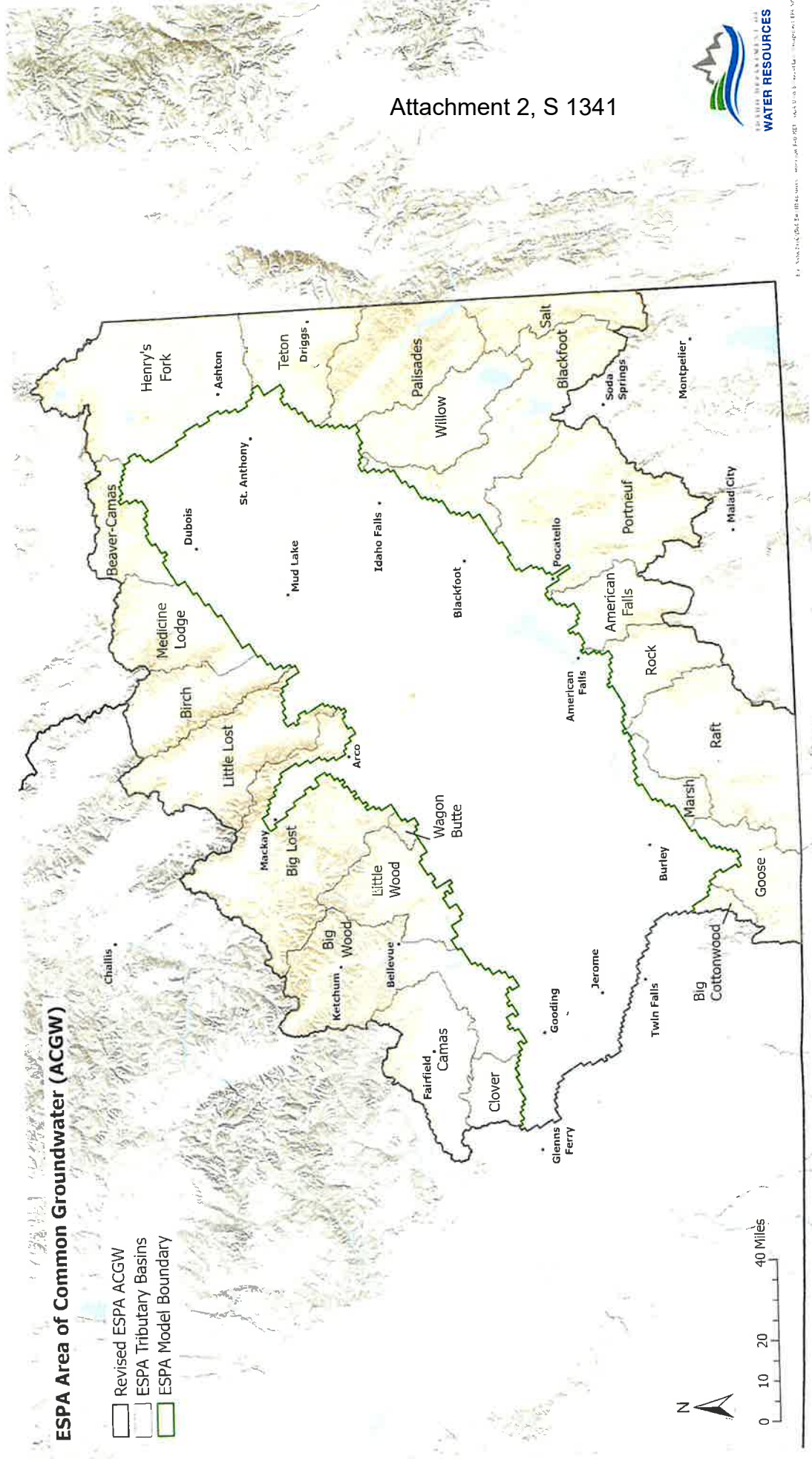
PASSED THE GAVEL: Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:55 p.m.

Senator Burtenshaw
Chair

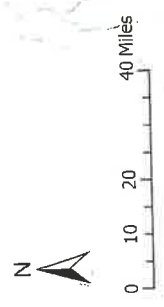
Shelly Johnson
Secretary





ESPA Area of Common Groundwater (ACGW)

- Revised ESPA ACGW
- ESPA Tributary Basins
- ESPA Model Boundary



AMENDED AGENDA #4
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 19, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
INTRODUCTION:	Introduction of Page Ashley Richardson	Senator Burtenshaw
<u>S 1338</u>	IRRIGATION DISTRICTS - Amends existing law to provide for the modification of boundaries of divisions in irrigation districts.	Paul Arrington, Director, Idaho Water Users Association
<u>S 1339</u>	RIGHTS-OF-WAY - Amends, repeals, and adds to existing law regarding irrigation and drainage rights-of-way.	Paul Arrington

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

- DATE:** Monday, February 19, 2024
- TIME:** 1:30 P.M.
- PLACE:** Room WW55
- MEMBERS PRESENT:** Chairman Burtenshaw, Vice Chairman Adams, Senators Guthrie, Harris, Okuniewicz, Schroeder, Semmelroth, and Taylor
- ABSENT/ EXCUSED:** Senator Den Hartog
- 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 1:31 p.m.
- INTRODUCTION:** **Introduction of Page Ashley Richardson. Chairman Burtenshaw** introduced Senate page, Ashley Richardson. **Ms. Richardson** told the Committee about herself and some of her plans for the future.
- S 1338** **IRRIGATION DISTRICTS - Amends existing law to provide for the modification of boundaries of divisions in irrigation districts. Paul Arrington**, Director, Idaho Water Users Association (IWUA), provided some background on how irrigation districts were formed, how irrigation district board members were selected, and the difficulties with finding qualified individuals to serve on irrigation district boards. He explained the issue was that Idaho Code did not provide a process to modify irrigation district divisions. This legislation outlined a process to amend the divisions within an irrigation district, including:
- An irrigation district must approve, by a two-thirds vote, a resolution requesting modification to the divisions.
 - The irrigation board must then submit a petition, explaining the reasons they desire modification, to the County Commissioners.
 - The modified divisions must continue to be "of as nearly equal size as possible."
 - The County Commissioners would then hold a hearing on the petition and then issue an order on the request.
- DISCUSSION:** **Senator Okuniewicz** asked if each person on the board had one vote. **Mr. Arrington** responded the default was one person, one vote in an irrigation district, although statutes had been passed that allowed districts to change to voting based on acreage. **Senator Okuniewicz** asked why the reason for not being able to fill a seat was not specific. **Mr. Arrington** responded that although the inability to fill a seat might be the reason 95 percent of the time, he did not want to foreclose the opportunity if a different reason presented itself. **Chairman Burtenshaw** asked what "equal size" meant. **Mr. Arrington** responded this meant equal geographic area.
- MOTION:** **Senator Schroeder** moved to send **S 1338** to the floor with a **do pass** recommendation. **Senator Adams** seconded the motion. The motion carried by **voice vote**.

RIGHTS-OF-WAY - Amends, repeals, and adds to existing law regarding irrigation and drainage rights-of-way. Mr. Arrington spoke about the pressures to alter and encroach upon Idaho irrigation water delivery and drainage systems due to population growth and growing urban areas. He spoke about conflicts over the easements that were essential for ditch access, operation, maintenance, and repair. He explained these conflicts were exacerbated by provisions of Idaho ditch easement law in Idaho Code § 42-11 and 42-12, which included out of date and repetitive language, and failed to reconcile provisions as they were amended or interpreted by the Idaho Supreme Court.

He explained that **S 1339** was drafted by Idaho's most experienced irrigation system managers and water lawyers through IWUA's Legislative Committee, with input from the Association of Idaho Cities and utility operators that frequently modify or encroach on ditch easements. He summarized this legislation, which updated the ditch easement statutes in Idaho Code § 42-11 and 42-12 to consolidate, conform, clarify, and repeal provisions based on Idaho Supreme Court decisions and contemporary experience. He reviewed the conflicts in Idaho Code regarding self-help provisions. He referred the Committee to his outline of changes handout. (Attachment #1) Some highlights were:

- To improve clarity and consistency, laterals and drains were added to provisions in Idaho Code § 42-11, and the right-of-way notice provisions of Idaho Code § 42-1102(3) were updated to be consistent with case law.
- Ditch operation, maintenance duties, and liabilities were consolidated into Idaho Code § 42-1201, allowing repeal of Idaho Code § 42-1202, 1203, and 1204.
- The remedial provisions of Idaho Code § 42-1207, and Idaho Code §§ 42-1102(5) and 42-1209, were conformed based on court decision *Pioneer v. Caldwell*, and to address the discrepancy found in *Hood v. Poorman*. These provided:
 - If a ditch was moved or piped, or the ditch easement was encroached upon without written permission and the action unreasonably or materially interfered with the use and enjoyment of the right-of-way, then:
 - The person that caused or permitted the encroachment or alteration must remedy the interference "within a reasonable time" after the ditch owner's request, or immediately in the event of reduced water flow, property damage, safety risk, or other emergency.
 - The ditch owner could undertake "self-help" to remedy the interference if the person causing or permitting the encroachment or alteration failed to timely perform the requested remedial actions or if there was reduced water flow, property damage, safety risk, or other emergency.
 - The ditch owner could not perform any work on a municipal or public utility line.
- Idaho Code § 18-4308 was updated to remove any unnecessary repetition of Idaho Code 42-1207.

DISCUSSION:

Senator Semmelroth asked if there were any limits or definitions on self-help efforts or activities in this legislation. **Mr. Arrington** responded that these were defined in 42-1102(5)(b).

TESTIMONY: **Paul Poorman** testified against **S 1339**. He told the Committee about his personal experience being sued by a neighbor with a ditch that ran through his property. He supported the revisions that consolidated overlapping sections. He disagreed with revised wording in Idaho Code § 42-1102, that added rights to a landowner who desired to move water across a neighbor's property and suggested revised wording. He disagreed with revisions to Idaho Code § 42-1207(5)(b) and suggested language requiring the placement of a ditch into pipe to be designed by an Idaho-registered, licensed professional engineer.

DISCUSSION: **Senator Guthrie** asked for clarification on what Mr. Poorman meant when he talked about drain water that came from somewhere else, like a neighbor's field, and then ran onto his property or water that exceeded the banks of a canal and ran onto his property. **Mr. Poorman** responded that was not a factor in his lawsuit, but his concern was the original code referenced live water, new verbiage discussed drain water. His interpretation of drain water was that it was live water that went across a field, irrigated the field, and was excess that had to go somewhere. **Senator Guthrie** asked if an easement was 20 or 25 feet wide and a pipe blew out and damaged outside the easement, would they be liable. **Mr. Poorman** responded that his understanding was if excess water damaged property, then that was the result of negligence, and his opinion was they would be liable.

Mr. Arrington spoke to some issues raised in earlier discussion. He spoke about the language relating to meeting standards for public works construction and burying pipes. He explained that language related to drain structures spoke to the structure used to direct and focus that drainage. He believed we have a duty to maintain our water delivery system, to get water delivered safely and efficiently, and to not injure the surrounding land.

Senator Guthrie asked who would be liable if a child got caught in a canal, went down through a pipe, and was injured or drowned. **Mr. Arrington** responded that they worked to make sure that people who lived and recreated in and around these facilities understood their dangers, but liability would depend on the circumstances of the particular case.

MOTION: **Senator Semmelroth** moved to send **S 1339** to the floor with a **do pass** recommendation. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:10 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary



S1339

Outline of changes to Title 42, Chapters 11 & 12

Chapter 11 Rights of Way (§§ 42-1101 — 42-1108)

- 42-1101. Rights of landowners to water. [Repealed 2021.]
- 42-1102. Owners of land — Right to right-of-way.
 - Amend
- 42-1103. Owners of springs and streams — Right to right of way.
 - Repeal
- 42-1104. Right of way over state lands.
 - Amend
- 42-1105. Right of way for riparian proprietors.
 - Repeal & Reenact
- 42-1106. Right of eminent domain.
 - Amend
- 42-1107. Right of way for drains.
 - No change
- 42-1108. Right to cross ditches.
 - Repeal

Chapter 12 Maintenance and Repair of Ditches (§§ 42-1201 — 42-1209)

- 42-1201. Ditches to be kept full.
 - Amend
- 42-1202. Maintenance of ditch.
 - Repeal (move to 42-1201)
- 42-1203. Maintenance of embankments.
 - Repeal (move to 42-1201)
- 42-1204. Prevention of damage to others.
 - Repeal (move to 42-1201)
- 42-1205. Bridges over ditches.
 - Repeal
- 42-1206. Repair of community ditches.
 - Repeal
- 42-1207. Change of ditch, canal, lateral, drain or buried irrigation conduit.
 - Amend
- 42-1208. Easements, rights-of-way, and other real property not subject to adverse possession.
 - No change
- 42-1209. Encroachments on easements and rights-of-way.
 - Amend

18-4308. Change of ditch, canal, lateral, drain or buried irrigation conduit

➤ [Amend](#)

S1339 reduces approximately 760 words, a 19% reduction (including amendments of Title 42, chapters 11 and 12, and amendment of I.C. 18-4308).

Current word count:

Word Count ? ✕

Statistics:

Pages	8
Words	3,993
Characters (no spaces)	20,125
Characters (with spaces)	24,075
Paragraphs	48
Lines	260

Word count after amendments:

Word Count ? ✕

Statistics:

Pages	6
Words	3,230
Characters (no spaces)	16,924
Characters (with spaces)	20,121
Paragraphs	57
Lines	235

Chapter 11 Rights of Way (§§ 42-1101 — 42-1108)

42-1101. Rights of landowners to water. (riparian land owner's entitlement to water)

- Enacted 1880, repealed 2021 (inconsistent w/ prior appropriation).

42-1102. Owners of land — Right to right-of-way.

- Subsections of 42-1102 enacted 1880, 1911, 1996, 2004, amended 2019 and 2021 as noted below.
- Amend 42-1102 to include laterals and drains. While 42-1102 currently references “ditches, canals and conduits” and “ditch, canal, conduit embankments and irrigation structures”, 42-1207 (ditch relocation & piping), 42-1208 (ROWs not subject to adverse possession) and 42-1209 (ditch encroachment protections) apply more broadly to “any ditch, canal, **lateral or drain** or buried irrigation conduit” (42-1207) and ROWs “owned by irrigation districts, Carey act operating companies, nonprofit irrigation entities, **lateral ditch associations, and drainage districts**” (42-1208, 42-1209). Including laterals and drains in 42-1102 conforms the provisions of chapter 11 with these provisions of chapter 12.

(1) [EXISTING] ROW entitlement for “ditch, canal or other conduit” to convey water for irrigation

- Enacted 1880, amended 2021.
- Creates and defines ROW **for existing ditches, canals and other conduits**, confers right to enter the servient estate owner's land. *Hood v. Poorman*, 519 P.3d 769, 780 (2022); *Chester v. Wild Idaho Adventures RV Park, LLC*, 519 P.3d 1152, 1162 (2022); *Morgan v. New Swed. Irr. Dist.*, 160 Idaho 47, 49 (2016); *Morgan v. New Swed. Irr. Dist.*, 156 Idaho 247, 253 (2014); *Sellers v. Powell*, 120 Idaho 250, 252 (1991).
- NOTE: “A right-of-way is a specific type of easement, which gives “[t]he right to pass through property owned by another.” *Hood v. Poorman*, 519 P.3d 769, 780 (2022). A “statutory ditch right-of-way consists of two parts: the primary easement and the secondary easement. *Hood*, Idaho at P.3d at , 2022 Ida. LEXIS 130.” *Chester*, 519 P.3d at 1165 (emphasis added).
- NOTE: Without agreement of the servient estate owner, eminent domain is the means by which a ROW **for a proposed ditch etc. or drain** is to be established. I.C. 42-1105, 42-1106 and 42-1107.
- “[S]uch owners or claimants of land” at the beginning of current subsection (1) refers to riparian land owners who were entitled to water from the stream per I.C. 42-1101. Since I.C. 42-1101 was repealed in 2021, this reference is removed.
- Amend to include laterals and drains as explained above

(2) [EXISTING] ROW O&M rights for “ditch, canal, conduit, embankments, and irrigation structures”

- Enacted 1996, amended 2021.
- Amend to include laterals and drains as explained above

(3) [EXISTING] ROW owner duty to maintain “Ditch, canal or conduit” and liability for damages

- Enacted 1880, not subsequently amended.
- Ditch maintenance duties and liabilities are comprehensively covered by 42-1202 (Maintenance of ditch), -1203 (Maintenance of embankments) and -1204 (Prevention of damage to others).
- Repeal this subsection. A ROW owner’s maintenance duties and liabilities will be covered by 42-1201, which consolidates 42-1202, -1203 and -1204.

(4) [EXISTING] Ditch presence = notice to landowner of ROW

- Enacted 1996, not subsequently amended.
- Renumber as subsection (3).
- This amendment simplifies language and clarifies that a servient estate owner has notice of a ROW for an irrigation conveyance facility if: “(a) the servient estate owner has actual or constructive knowledge of the irrigation conveyance facility; or (b) the irrigation conveyance facility or any feature thereof is visible or reasonably discoverable.”
- Amend to include laterals and drains as explained above
- NOTE: These standards for notice are well established in case law: *Nampa Highway Dist. No. 1 v. Knight*, 166 Idaho 609, 616-617 (2020); *Tiller White, LLC v. Canyon Outdoor Media, LLC*, 160 Idaho 417 (2016); *Weitz v. Green*, 148 Idaho 851, 858-859 (2010); *West Wood Invs. v. Acord*, 141 Idaho 75, 86 (2005); *Kalange v. Rencher*, 136 Idaho 192, 195-196 (2001); *Haugh v. Smelick*, 126 Idaho 481, 483 (1993); *Villager Condominium Ass’n v. Idaho Power Co.*, 121 Idaho 986, 990-991 (1992); *Wood v. Simonson*, 108 Idaho 699 at 702-04 (Ct. App. 1985); *Fajen v. Powlus*, 96 Idaho 625, 627 (1975); *Langroise v. Becker*, 96 Idaho 218, 220-221 (1974); *Checketts v. Thompson*, 65 Idaho 715 (1944).
- NOTE: Servient estate owners will not be deemed to have notice of buried irrigation and drainage conduits if they do not have actual or constructive knowledge of them, or their existence is not reasonably discoverable (e.g. shown in a subdivision plat).
- NOTE: Whether a party has notice is a question of fact. *West Wood Invs. v. Acord*, 141 Idaho 75, 85 (2005).
- NOTE: ROW is created by 42-1102(1), not this subsection.

(5) [EXISTING] Written Permission Required

- Enacted 2004, amended 2019 to add “operator” and “landscaping, trees, vegetation”.
- Renumber as subsection (4).
- Amend to add “written permission shall not be unreasonably withheld”, per Cities & INT Gas request (also added to 42-1207(1)(d) and 42-1209(1)).

(5) [EXISTING] Remedy When Written Permission Not Obtained

- Enacted 2004.
- Renumber as subsection (5).
- Amend to include the same remedial provisions added to 42-1207(1)(e) and 42-1209(2), based on the *Pioneer v. Caldwell* 153 Idaho 599-600 explanation of the “right to self-help”.

(6) [NEW] Responsibility for encroachment O&M

- Person/entity causing or permitting encroachment is responsible for its O&M to ensure non-interference with ditch & ditch ROW.
- Consistent with obligations in 42-1108 (repeal), 42-1205 (repeal), 42-1207 ((1)(c) and (2)(c) as amended).
- Provision also added to 42-1209(3)

(7) [EXISTING] No effect on eminent domain in I.C. 7-701

- Renumber as subsection (7).
- No change proposed.

(8) [EXISTING] 42-1102 applies to “ditches, canals, conduits and embankments existing on and after act

- Enacted 1996, not subsequently amended.
- Renumber as subsection (6).
- Amend to include laterals and drains as explained above

42-1103. Owners of springs and streams — Right to right of way.

- Enacted 1880, not subsequently amended.
- 42-1103 was originally Rev. Stat. 3185. It provides that a ditch ROW may be acquired through the county commissioner petition procedure provided in Rev. Stats. 3182 and 3183, which was replaced by the right of eminent domain provision in 42-1106.
- Repeal. Acquisition of ROW by eminent domain provided by 42-1105 and 42-1106.

42-1104. Right of way over state lands.

- Enacted 1880, not subsequently amended.
- Amend to include laterals and drains as explained above
- Add “or other water conveyance facility to convey water for beneficial use” to capture 42-1103: “or to any city or town for the use of the inhabitants thereof, or to any factory, or to any distant place, with the intent to apply the same to a beneficial use”.

42-1105. Right of way for riparian proprietors.

- Enacted 1880, not subsequently amended.
- Provides riparian property owner the right to install diversion works in stream channels
- Interpreted in *Schodde v. Twin Falls Land & Water Co.* 161 F. 43, 47 (1908): “The permission here given is a mere license to the owner of lands adjacent to a stream

to use any appropriate method for raising the water to a level above the banks for distribution upon such adjacent lands, but it is immaterial to the state what particular method is used. The landowner may use a ram, a pump, or a wheel, or he may raise the water by means of a ditch. And he may change from one method to another as the situation or circumstances may require.”

- Provide right to install diversion works to water right owners, not just riparian land owners
- Clarify location as the “authorized point of diversion in any of the waters of the state described in section 42-101” (“waters of the state, when flowing in their natural channels, including the waters of all natural springs and lakes” 42-101. (Note ref. to “public streams or other natural water sources” in 42-1201).
- Clarify that right is “for the purpose of diverting and conveying water to the place of use in accordance with the water right”.

42-1106. Right of eminent domain for ditch, canal or conduit.

- Enacted 1899, not subsequently amended.
- Amend to include laterals and drains as explained above

42-1107. Right of eminent domain for drain.

- Enacted 1911, not subsequently amended.
- No change proposed.

42-1108. Right to cross ditches.

- Enacted 1899, not subsequently amended.
- Repeal. 42-1102(5) and 42-1209 encroachment provisions cover the “right to cross” a ditch ROW with another ditch, flume or conduit.

Chapter 12 Maintenance and Repair of Ditches (§§ 42-1201 — 42-1209)

42-1201. Ditches to be kept full.

- Enacted 1899, amended 1989.
- Creates easement for existing ditches, confers right to enter the servient estate owner’s land. NOTE: Without agreement of the servient estate owner, eminent domain is the means by which a ROW for a proposed ditch etc. or drain is to be established. 42-1105, 42-1106 and 42-1107.
- Remove fixed dates for irrigation water delivery in subsection (a) to reflect ditch operators’ discretion to determine irrigation start and end dates.
- Consolidate in 42-1201 all ditch maintenance duties from 42-1202 (maintenance of ditch), 42-1203 (maintenance of embankments) and 42-1204 (prevention of damage to others).

42-1202. Maintenance of ditch.

- Enacted 1899, not subsequently amended
- Move to 42-1201 (1)(b)

42-1203. Maintenance of embankments.

- Enacted 1899, amended 2012, 2019
- Move to 42-1201 (1)(c, d) & (2)

42-1204. Prevention of damage to others.

- Enacted 1880, amended 1996, 2012, 2019, 2021
- Move to 42-1201 (1)(e) & (2)

42-1205. Bridges over ditches.

- Enacted 1899, not subsequently amended
- Repeal. Antiquated & not used

42-1206. Repair of community ditches.

- Enacted 1880, not subsequently amended
- Repeal. Antiquated and not used. Collection of O&M costs for lateral ditches (“community ditches”) covered by Title 42, chapter 13.

42-1207. Change of ditch, canal, lateral, drain or buried irrigation conduit.

- Enacted 1907, amended 1994, 2002, 2005, 2011, 2019
- subsection (1) – relocation, piping by servient estate owner
 - ✓ (1)(d) - clarifies written permission requirement.
 - ✓ (1)(d)(iii) Amend to add “written permission shall not be unreasonably withheld”, per Cities & INT Gas request (also added to 42-1102(4) and 42-1209(1)).
 - ✓ (1)(e) - mirrors existing remedial provisions in 42-1102(5) and 42-1209(2).
 - ✓ (1)(e)(i)(ii) - (i) and (ii) are the same remedial provisions added to 42-1102(5) and 42-1209(2), based on *Pioneer v. Caldwell* 153 Idaho 599-600 explanation of the “right to self-help”.
- subsection (2) - relocation, piping by irrigation facility owner
- subsection (3) – 42-1207 applies to facilities existing on or established after effective date

42-1208. Easements, rights-of-way, and other real property not subject to adverse possession.

- Enacted 1981, amended 2004, 2021
- No change

42-1209. Encroachments on easements and rights-of-way.

- Enacted 2004, amended 2019

(1) [EXISTING] Responsibility for encroachment O&M

- renumber as subsection (1)
- amend to reference incidental easement rights and protections of 42-1102 and 42-1207
- Amend to add “written permission shall not be unreasonably withheld”, per Cities & INT Gas request (also added to 42-1102(4) and 42-1207(1)(d)).

(2) [EXISTING] Responsibility for encroachment O&M

- renumber as subsection 2
- amend to include remedial provisions added to 42-11102(4) and 42-1207(1)(e), based on *Pioneer v. Caldwell* 153 Idaho 599-600.

(3) [NEW] Responsibility for encroachment O&M

- Person/entity causing or permitting encroachment is responsible for its O&M to ensure non-interference with ditch & ditch ROW.
- Consistent with obligations in 42-1108 (repeal), 42-1205 (repeal), 42-1207 ((1)(c) and (2)(c) as amended).
- Provision also added to 42-1102(5)

(4) [EXISTING] No effect on eminent domain in I.C. 7-701

- Renumber as subsection 4.
- No change proposed.
- Same as existing 42-1102(7).

(5) [NEW] 42-1209 applies to ditches, canals, laterals, drains or conduits and ROWs existing on and after act

- Same as existing 42-1102(7).

18-4308. Change of ditch, canal, lateral, drain or buried irrigation conduit.

- Enacted 1972, amended 1994, 2000, 2002, 2005
- Current language mirrors 42-1207
- Amend to reference 42-1207 rather than repeat 42-1207.

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 21, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Minutes of February 5, 2024	Senator Schroeder Senator Adams
MINUTES APPROVAL:	Minutes of February 7, 2024	Senator Okuniewicz Senator Harris
<u>S 1292</u>	LANDS - Amends, repeals, and adds to existing law to provide for legal representation.	Senator Harris
<u>S 1322</u>	INVASIVE SPECIES - Amends and adds to existing law to provide requirements for launch and transport of conveyances and to provide that a portion of annual revenue deposited in the invasive species fund may be made available to counties, cities, and other local entities for certain equipment and supplies.	Senator Burtenshaw
PRESENTATION:	Idaho Department of Water Resources and Idaho Water Resource Board Update	Mathew Weaver, Director, Idaho Department of Water Resources Jeff Raybould, Chairman, Idaho Water Resource Board

Public Testimony Will Be Taken by Registering Through the Following Link:
[*Register to Testify*](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw	Sen Okuniewicz
Vice Chairman Adams	Sen Schroeder
Sen Guthrie	Sen Semmelroth
Sen Den Hartog	Sen Taylor
Sen Harris	

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 21, 2024

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.

MINUTES APPROVAL: **Senator Schroeder** moved to approve the Minutes of February 5, 2024. **Senator Adams** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Harris** moved to approve the Minutes of February 7, 2024. **Senator Adams** seconded the motion. The motion carried by **voice vote**.

S 1292 **LANDS - Amends, repeals, and adds to existing law to provide for legal representation.** **Senator Harris** explained this legislation removed the responsibility of the Office of the Attorney General (OAG) to provide legal representation to the Idaho Department of Lands (IDL) and allowed IDL to hire or contract its own legal counsel. The Attorney General served on the State Board of Land Commissioners (Land Board) and IDL was the administrative and regulatory arm of the Land Board. **Senator Harris** argued that the Attorney General's staff provided support for the Attorney General's efforts as a member of the Land Board, and this could be seen as a conflict of interest and develop distrust with the public.

DISCUSSION: **Chairman Burtenshaw** asked Senator Harris to explain for the Committee, in layman's terms, the position on the Land Board and how that conflicts with IDL. **Senator Harris** responded that the members of the Land Board were Idaho's Governor, Secretary of State, Attorney General, Superintendent of Public Instruction, and the State Controller. Within IDL there were three deputy attorney generals and their staff. Those deputy attorney generals and their staff worked for IDL, but also for the Land Board, through the Attorney General. **Senator Guthrie** asked for an example that illustrated the potential conflict. **Senator Harris** responded that there was legislation passed three or four years ago having to do with mineral leases, and it passed both bodies of the legislature by a wide margin. When it came to enacting that statute, the legal counsel with IDL said it was unconstitutional and they refused to enact it, which left those holding mineral leases in a vulnerable and unsupported position. **Senator Guthrie** asked if those who refused to enact the mineral lease legislation were within IDL, and on what authority did they not enact a legally passed statute. **Senator Harris** responded that the deputy attorney generals within IDL advised IDL not to enact this legislation.

Vice Chairman Adams asked for an explanation of the reduction in funding included in the last paragraph of the Statement of Purpose/Fiscal Note. **Keith Bybee**, Division Manager, Budget Policy Analysis, explained that for the first two years there were cost allocations already in place for attorney general fees at IDL. After the first two years, cost allocations would catch up with actual costs, so the first year of savings would be in fiscal year 2027. **Vice Chairman Adams** asked if continuing to allow IDL to also contract with the OAG meant that there was a risk of double payment. **Mr. Bybee** responded that the costs paid or accrued for services provided by the OAG would fall off after the two year lag between cost allocation and actual costs, or fiscal year 2027.

TESTIMONY:

Raul Labrador, Attorney General, State of Idaho, stated he was not for or against **S 1292**, but he had some concerns. He believed that the way he ran the OAG was different than his predecessor, so this legislation may not address a current problem. He shared that he would not comment on the constitutionality of the legislation because he did not think it was his role, but he would speak behind the scenes about individual legislation and share his concerns. Some of his concerns with this legislation were:

- the loss of impartial, independent advice, as IDL would have influence over the legal advice given by attorneys they could hire and fire
- the impact of influence from outside sources, such as industry lobbyists or influential private individuals, could increase because embedded attorneys would be more likely to condone employee's behavior
- the legislation provided that IDL general counsel could consult with the OAG, although such a consultation would breach attorney client privilege
- the OAG would still be required to represent the Land Board in court
- the possible loss of institutional knowledge
- this legislation might violate Idaho's Constitution, because the constitutional intent of Idaho Code § 58-101, that created IDL, was that the Land Board, and by extension, IDL, receive their legal counsel from the OAG

DISCUSSION:

Senator Schroeder asked about people that had sought advice on a particular piece of draft legislation from his office regarding constitutionality and were rebuffed. **Mr. Labrador** responded that he did not think his office should be getting in the middle of constitutional fights, but these particular people were advised of the constitutional issues his office had with the legislation. **Senator Schroeder** asked if it would have been better if he had asked for an opinion in writing, as was his duty under Idaho Code § 67-1401(6). **Mr. Labrador** responded that he read his duties differently, and that the legislature had their own attorneys that could provide a written opinion. He thought it was a mistake for the executive branch to provide a written opinion on the constitutionality of legislation. **Senator Schroeder** asked Mr. Labrador to expand on his concern about attorneys being beholden to the Land Board. **Mr. Labrador** responded that some of his attorneys understood their role was to explain what the law actually stated, but he also had attorneys that legally tried to justify bad actions. His goal was to educate his staff to provide honest advice, and to stand firm on what the law actually stated.

Senator Semmelroth asked Mr. Labrador to explain his concern that if this legislation was implemented, legislators would lose access to impartial advice, since he stated that his office should not provide advice or speak to the constitutionality of legislation anyway. **Mr. Labrador** responded that if legislators sought advice from his office, they would receive help, but they would not receive a written opinion about constitutionality, because those written opinions have been used against his office in litigation. **Senator Semmelroth** asked if this legislation was implemented and there was a situation where the OAG had a legal clash with IDL, would it not be beneficial for IDL to have their own attorneys, so they are not in conflict with the OAG. **Mr. Labrador** responded that IDL and the Land Board were legally one entity, so having separate attorneys may be a problem.

Senator Guthrie asked if this legislation was enacted, how the transition would work if IDL hired their own counsel, but the OAG represented them in court. **Mr. Labrador** responded that he did not know, and it would depend on the lawsuit and what issues were raised. **Senator Guthrie** asked what authority allowed the Attorney General to prevent a law passed by the legislature from being implemented, as in Senator Harris's example. **Mr. Labrador** explained it was his understanding that after the legislation was passed, the Attorney General and the Natural Resources Division Chief at IDL went to the IDL attorneys and told them they could not implement the statute, because it was unconstitutional. **Senator Schroeder** asked about the conflict between the OAG representing their client, in this case IDL, and also providing them with legal support. **Mr. Labrador** responded that in the case of the OAG and the Land Board and IDL, which in his mind and in the Constitution and in the statute were one entity, there was no conflict. He agreed there may be a perceived conflict.

Chairman Burtenshaw asked if there was anything keeping IDL from hiring outside counsel if they felt that there was a conflict of interest. **Mr. Labrador** responded that in this instance, the statutes do not allow IDL to hire outside counsel. **Chairman Burtenshaw** asked if this legislation was in conflict with statute. **Mr. Labrador** responded that when agencies could or could not hire outside counsel was stated in statute. He added that there were entities, such as the governor, the legislature, and the judiciary, that statute allowed to hire outside counsel, but IDL did not have the statutory authority to hire outside counsel. **Chairman Burtenshaw** asked if this legislation was unconstitutional. **Mr. Labrador** responded that there was a constitutional problem with this legislation. **Chairman Burtenshaw** asked how the problem of having legislation overruled by the OAG could be corrected. **Mr. Labrador** offered to review the legislation passed by the legislature and not enacted with legislators to determine how to get around the court decision that created the issue. He thought they might redraft that legislation or, if necessary, create a constitutional amendment.

Chairman Burtenshaw asked Senator Harris if he would be willing to work with Mr. Labrador on this issue. **Senator Harris** responded that he would work with anyone to fix something that needed to be fixed.

MOTION: **Senator Schroeder** moved to send **S 1292** to the floor with a **do pass** recommendation. **Chairman Burtenshaw** seconded the motion.

DISCUSSION: **Vice Chairman Adams**, **Senator Guthrie**, and **Senator Schroeder** stated they would need further discussion on this legislation before they supported it on the floor.

VOICE VOTE: The motion to send **S 1292** to the floor with a **do pass** recommendation carried by **voice vote**.

**PASSED THE
GAVEL:**

S 1322

Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

INVASIVE SPECIES - Amends and adds to existing law to provide requirements for launch and transport of conveyances and to provide that a portion of annual revenue deposited in the invasive species fund may be made available to counties, cities, and other local entities for certain equipment and supplies. Chairman Burtenshaw stated this legislation amended Idaho Code § 22-1904 to further define "conveyance" as "retail or wholesale products, or water known to carry or have a reasonable possibility of carrying invasive species." It allowed up to twenty percent of the invasive species fund's annual revenue to be made available to counties, cities, or other local entities for equipment and supply costs necessary for the operation of watercraft inspection stations. It created a new section of code that required immediate removal of vegetation and water drainage from conveyances. It also required nonresidential vehicles to carry an invasive species sticker and to be inspected at a watercraft inspection station prior to launch.

DISCUSSION:

Senator Taylor asked how the portion of invasive species funds would be distributed. **Lloyd Knight**, Deputy Director, Idaho State Department of Agriculture (ISDA), explained that ISDA received a number of inquiries every year from entities looking for assistance and this legislation provided a defined amount that would be available. **Senator Semmelroth** asked if this legislation was based on lessons learned from the recent discovery of quagga, or did it reflect challenges in statute that may have delayed the response to the recent discovery. **Chairman Burtenshaw** responded that this legislation was based on both.

Senator Guthrie asked if the revised requirements to drain everything everywhere were too impractical and would not guarantee catching every possible invasive species. **Chairman Burtenshaw** responded that heat killed the invasive species, and it was important to be sure people understood that they cannot enter the state carrying invasive species. **Senator Guthrie** asked if a hot wash would be applicable to the internal components of a watercraft. **Mr. Knight** responded that hot washes had attachments that cleaned the motor in the lower unit, ballast tanks, and spillages, and that they would clean everything within the boat.

Senator Den Hartog, **Vice Chairman Adams**, and **Senator Guthrie** asked questions about how extensive the regulation and enforcement might be if the need for an invasive species sticker was extended into the revised definition of conveyance, and to things such as duck decoys and inner tubes. **Mr. Knight** explained that this legislation did not include the regulations for invasive species stickers, and these were in the Idaho Department of Parks and Recreation statutes; Idaho Code § 67-7008A. He added that they were considering watercraft when they drafted this legislation, and this legislation did not apply to such things as inner tubes that had never been anywhere but up and down the Boise River.

Chairman Burtenshaw shared that the current quagga mussel disaster had cost the state about two million dollars. It had the potential to have a disastrous effect on dams and anything that was a water conveyance, so the purpose of this legislation was to tighten statute and stop this invasive species from moving into Idaho.

MOTION:

Senator Semmelroth moved to send **S 1322** to the floor with a **do pass** recommendation. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

**PASSED THE
GAVEL:**

Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

PRESENTATION: **Chairman Burtenshaw** stated in the interest of time, Jeff Raybould would give his part of the presentation, and Mathew Weaver would return to present at a later date.

Idaho Department of Water Resources and Idaho Water Resource Board Update. **Jeff Raybould**, Chairman, Idaho Water Resource Board (IWRB), provided an overview of the activities of the IWRB over the last year. This included the Anderson Ranch Dam raise, the Mountain Home Air Force Base pipeline and pump station, rehabilitation on facilities in Priest Lake, the Lemhi River Basin settlement, the statewide water supply bank, IWRB's aquifer modeling efforts, cloud seeding, manage recharge, financial, and flood management grant programs, their aging infrastructure and loan and grant program, and their regional water sustainability projects.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:57 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, February 26, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1337</u>	IRRIGATION DISTRICTS - Amends existing law to revise provisions regarding irrigation district lands.	Paul Arrington, Director, Idaho Water Users Association
<u>S 1342</u>	GRAZING LEASES - Amends existing law to exclude grazing leases from certain hearing requirements and to provide that all state lands may be leased for a period of up to 40 years for grazing leases.	Senator Harris
<u>H 403</u>	SOIL CONSERVATION DISTRICTS - Amends existing law to establish provisions regarding a reduction in the number of supervisors and to revise provisions regarding terms of office, the filling of vacancies, and quorums.	Rep. Garner
PRESENTATION:	Idaho Department of Lands Performance Update	Dustin Miller, Director, Idaho Department of Lands

Public Testimony Will Be Taken by Registering Through the Following Link:
[*Register to Testify*](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw

Vice Chairman Adams

Sen Guthrie

Sen Den Hartog

Sen Harris

Sen Okuniewicz

Sen Schroeder

Sen Semmelroth

Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson

Room: WW37

Phone: 332-1323

Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 26, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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.

S 1337 **IRRIGATION DISTRICTS - Amends existing law to revise provisions regarding irrigation district lands.** **Paul Arrington**, Director, Idaho Water Users Association, explained irrigation districts were local government entities that issued assessments based on the cost of delivering water to their landowners. Current law mandated that an irrigation district take ownership of property when assessments on that property were three years delinquent. When property was sold to satisfy a delinquent assessment, there was often a surplus. This legislation addressed two issues relating to delinquent irrigation district assessments. First, it provided options for irrigation districts in recovering delinquent assessments, second, it provided a process for handling surplus proceeds. He explained the process, including notice, for handling surplus proceeds was required based on the U.S. Supreme Court decision in Tyler v. Hennepin County. He reviewed his proposed amendment to include parties in interest, such as banks and credit unions, that might have a claim on surplus proceeds. He requested that the Committee send **S 1337** to the 14th Order of Business to integrate proposed amendments into the legislation.

DISCUSSION: **Senator Guthrie** asked if there was anything in the bill that allowed for surplus proceeds to go to the original property owner once all debt was satisfied. **Mr. Arrington** responded by reviewing the process outlined in **S 1337** on page four, subsection c, lines seven through 31, which included an opportunity for the original owner of the property to file a claim to excess proceeds. **Senator Guthrie** asked about notification to the delinquent owner. **Mr. Arrington** responded that this legislation addressed assessments that were three years delinquent, but there were multiple steps outlined in statute to make sure that landowners knew they were in danger of losing their property completed prior to getting to this point. **Senator Den Hartog** asked if the district elected to remove the water, as noted on page three, subsection (2)(a), and property was sold, if the new owner could have the water right restored. **Mr. Arrington** responded that there was a process through the water district that provided opportunities to return water to the property, if water was available, but it would not be the same water.

Vice Chairman Adams asked if the loss of water to the property would significantly drop the value of the land. **Mr. Arrington** responded that it would. He argued that this provided another motivation for delinquent landowners to pay their assessments. **Senator Guthrie** asked if it was in the best interest of the district to sell a property without the water, which would be contrary to recouping the property's highest value. **Mr. Arrington** responded that there were several options that a district could choose to recover the outstanding debt, and the option they chose would depend on the particular circumstances. **Senator Schroeder** asked for clarification that this legislation would grant discretion on the part of the irrigation district to either sell the property, rather than being required to take title to the property, or to sever the water and sell the property separately. **Mr. Arrington** clarified that if the irrigation district chose to remove the water, they did not take title to the land, and the landowner retained ownership of that land. The irrigation district would remove the water to a new user who would pay for it.

Senator Okuniewicz requested confirmation that in the case of choosing to remove the water and not take title to the land, the water district was allowing the property owner to keep their land, because all they really were concerned about was the water. **Mr. Arrington** responded that in practice, there was a great effort to resolve these delinquencies before they got to the point of removing water or taking title.

MOTION: **Senator Den Hartog** moved to send **S 1337** to the 14th Order of Business for possible amendment. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

S 1342 **GRAZING LEASES - Amends existing law to exclude grazing leases from certain hearing requirements and to provide that all state lands may be leased for a period of up to 40 years for grazing leases.** **Senator Harris** explained this legislation extended the length of grazing leases on State endowment lands from a maximum length of twenty years to a potential maximum length of forty years. He argued that extending the lease length created consistency and predictability for those obtaining a grazing lease, and allowed them to make beneficial improvements over a longer term. He added that this also provided longer term consistent revenue for the Idaho Department of Lands (IDL) endowment fund. This legislation also exempted grazing leases from the hearing requirement, which would reduce costs and travel by IDL staff.

Patxi Larrocea-Phillips, representing the Idaho Cattle Association, provided some additional information regarding **S 1342**, including that this legislation would only apply to a small percentage of grazing leases that might be landlocked or only accessible by one operator, that IDL retained the flexibility to award longer or shorter lease lengths, and grazing lease rates were not fixed, but based on indexes and subject to change each year.

DISCUSSION: **Vice Chairman Adams** asked what factors were weighed when determining the length of a lease. **Mr. Larrocea-Phillips** responded the number of bidders on a lease, the long term intentions for that property, and the viability of the property for something other than grazing. **Senator Adams** asked if half of the leases were at twenty years, and the rest around ten years, should the average lease grow to be closer to 20 years. **Mr. Larrocea-Phillips** responded that they hoped so. In response to Senator Guthrie and Senator Schroeder's concerns about the exclusion of the hearing requirement, **Mr. Larrocea-Phillips** explained that grazing leases had never had a hearing requirement, as they were normally far from cities and had little potential to be intrusive, noisy, or polluting.

TESTIMONY: **Russ Hendricks**, representing the Idaho Farm Bureau, testified in support of **S 1342**. He believed it gave additional clarity to grazing leases so that ranchers could invest in infrastructure with less risk to their operation. He added that there would be a cost savings to IDL due to decreased notice and auction requirements.

DISCUSSION: **Senator Harris** added that one of the reasons for this legislation was that some of these leases were intermingled with private ownership, and this legislation would help lease holders manage their holdings more easily as a single unit.

MOTION: **Senator Adams** moved to send **S 1342** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 403 **SOIL CONSERVATION DISTRICTS - Amends existing law to establish provisions regarding a reduction in the number of supervisors and to revise provisions regarding terms of office, the filling of vacancies, and quorums.** **Representative Garner** explained this legislation amended Idaho Code § 22-2722 to make it clearer and to correct some problems in statute. It outlined how a soil district could move from a seven member board back to a five member board, clarified how vacant seats were filled, and defined a quorum.

DISCUSSION: **Senator Taylor** asked about the Idaho Code noted on the Statement of Purpose, which was 22-2722, when the legislation stated amending 22-2721. **Representative Garner** responded that was a typo on the Statement of Purpose. **Senator Harris** shared concerns about the ability of the governor to appoint replacements. **Representative Garner** responded that some soil districts covered two or three counties, so if county commissioners appointed board members, there would be a conflict over which county got more seats on the board, and the Idaho Conservation Commission was not interested, so the next logical step was the governor. **Senator Harris** asked how many members the governor could appoint. **Representative Garner** explained the local district would have ninety days to find someone to sit on their board, then the governor would appoint any vacant seats. He did not expect the governor to appoint large groups, but only one vacancy at a time.

MOTION: **Senator Harris** moved to send **H 403** to the 14th Order of Business for possible amendment. **Senator Semmelroth** seconded the motion.

DISCUSSION: **Senator Harris** explained that he thought this legislation needed clarification of who the governor could appoint and how many.

VOTE: The motion to send **H 403** to the 14th Order of Business for possible amendment carried by **voice vote**.

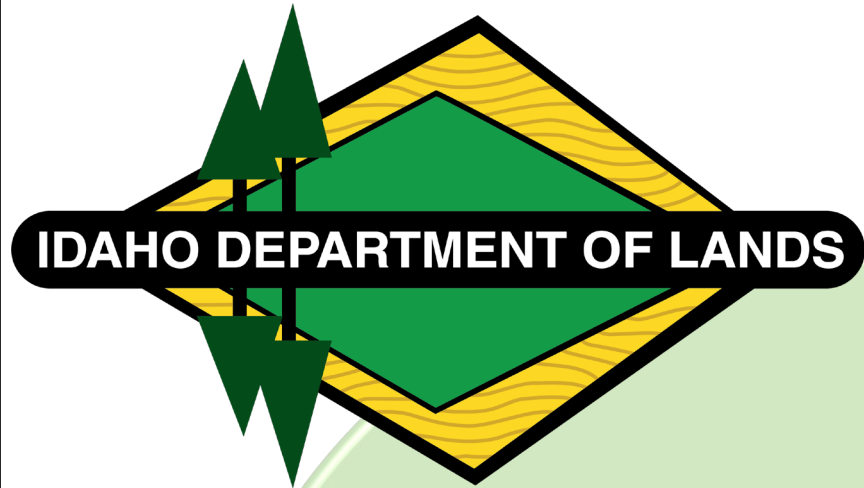
PRESENTATION: **Idaho Department of Lands Performance Update.** **Dustin Miller**, Director, Idaho Department of Lands, presented an update on the agency, their fiscal year 2023 performance, and their 2024 budget request. He reviewed the purpose of the endowment land established when Idaho became a state and the distribution of funding from endowment lands. He reviewed the composition and purpose of the State Board of Land Commissioners, and the responsibilities of IDL. He noted some accomplishments in fiscal year 2023. He reviewed fiscal year 2023 performance measures, including the volume of timber sold, the net return on timber, the percentage of fires controlled at less than ten acres, and the number of fire readiness reviews, Forest Practices Act inspections, and lease renewals completed. He reviewed the status of investments the legislature made to the fire suppression program, and fiscal year 2025 requested ongoing and onetime budget enhancements. (Attachment 1)

DISCUSSION: **Senator Guthrie** asked about the cost for fourteen acres for the veterans cemetery expansion, which was \$285,000 an acre. **Mr. Miller** responded that this was the amount that the Governor requested. **Senator Guthrie** asked if that cost included improvements. **Mr. Miller** responded that they were only serving as the real estate broker, so he would get some answers from the Idaho Division of Veteran Services. **Senator Harris** asked which forest was not yet part of the Good Neighbor Authority. **Mr. Miller** responded that they do not have an agreement with the Sawtooth National Forest. **Senator Harris** asked if we receive anything back from that program. **Mr. Miller** responded that the program was now self-sustaining, using dedicated funds from timber sales on federal lands, and any money recovered went back into planning for the next timber sale, for restoration projects, and to pay fees. **Senator Taylor** shared his appreciation for IDL's help with fighting fire. **Chairman Burtenshaw** asked about IDL's plan for harvesting timber and how much they expected to sell in a year. **Mr. Miller** responded that they were in the process of using new modeling to plan the next five years of timber sale harvests. This would consider appropriate and sustainable forest management while providing a stable supply of wood and fiber to the mills.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:38 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary



Idaho Department of Lands

Mission: To professionally and prudently manage Idaho's endowment assets to maximize long-term financial returns to public schools and other trust beneficiaries and to provide professional assistance to the citizens of Idaho to use, protect and sustain their natural resources.

Established under Idaho Code Title 58

Manage and generate revenue on 2.5 million acres for endowment beneficiaries

K-12 public schools is the largest endowment beneficiary

Revenue through timber sales and land leasing (grazing, minerals, comm sites, recreation, etc.)

Provide assistance to private landowners and partner with agencies to address forest health

Regulate mining activities and enforce the Lake Protection Act and Forest Practices Act

Wildfire suppression responsibility on 9 million acres of state, federal and private timberlands

FY 2023 Accomplishments

\$100 million distributed to endowment beneficiaries

299 MMBF of timber harvested with 52,255 truckloads hauled

3.97 million seedlings planted on 11,022 acres

1,634 land leases managed

1,513 technical assists to private landowners

10,763 encroachment permits and 196 submerged lands leases were managed

1,571 active mines covered by reclamation plans, 28 by dredge & placer permits

FY 2023 Performance Measures

FINANCIAL STEWARDSHIP GOALS	ACTUAL/GOAL
1. Volume Timber Sold Per FAMP	326.1 mmbf/326 mmbf
2. Net Return on Timber	3.26%/3.5%
3. Percent Fires Controlled at <10 acres	95%/94%
4. Fire Readiness Reviews Complete	12/7

We fulfill the Land Board's fiduciary duties by maximizing long-term financial returns from endowment lands and through prudent management of state funds and resources.

FY 2023 Performance Measures

CUSTOMER FOCUS GOALS	ACTUAL/GOAL
5. Percent of Forest Practices Act Inspections	49%/50%
6. Percent of Leases Renewed by Expiration Date	43%/90%
7. Check Scales Conducted	171/150

We deliver programs with professionalism and integrity, providing exemplary service to external and internal customers.

FY23 Budget Request (Enhancements)

ENHANCEMENT NAME	AMOUNT	STATUS
Engine Bosses (10 FTP)	\$783,300	Most Positions Hired
Fire Business System	\$1,013,000	Purchased
Seasonal Firefighters and Pay Increase	\$559,000	Implemented
Fire Management Officers (2 FTP)	\$285,900	Positions Hired
N. Idaho Booster Crew (seasonal)	\$80,000	Hired last season
Fire Equipment - N. Idaho (Type 5 engine and UTV)	\$164,000	Purchased
Drone Equipment (1 large and 2 small drones) and Pickup	\$95,600	Purchased
Forest Legacy FTP to Full-time (.33 FTP)	\$0	Complete
IT License Increases	\$173,800	Complete

FY23 Budget Request (Enhancements) *Continued*

ENHANCEMENT NAME	AMOUNT	STATUS
Trust Land Equipment (2 pickups, 1 SUV, radios)	\$173,800	Purchased
Good Neighbor Authority Equipment	\$75,100	Purchased

FY24 Budget Request (Enhancements)

ENHANCEMENT NAME	AMOUNT	STATUS
East Idaho Forest Protective District (6 FTP)	\$700,300	Currently Hiring
Strategically Located Engine Staffing (15+ seasonal FFs)	\$275,000	Will fill summer 2024
Fire Zone Manager South (1 FTP)	\$103,100	Position Hired
Endowment Forest Management Spending Authority	\$2,500,000	Funds in use
Good Neighbor Authority Position and Equipment (1 FTP)	\$127,600	Position Hired
GNA Equipment (4 ATVs , track systems, trailer)	\$72,000	Ordered
Forest Practices Act - Resource Supervisor (1 FTP)	\$150,900	Position Hired
Boise Staff Office Building Repairs	\$500,000	In Progress
Log Scaling Program Vehicles (3 SUVs)	\$96,000	Ordered

FY24 Budget Request (Enhancements) *Continued*

ENHANCEMENT NAME	AMOUNT	STATUS
Forest Legacy Staff (1 FTP)	\$115,000	Position Hired
<i>FY23 Supplemental</i> - E. Idaho District Equipment	\$340,400	In Progress
<i>FY23 Supplemental</i> - Fire Equipment	\$831,000	Purchased/ In Progress
<i>FY23 Supplemental</i> - Seasonal Housing Facility (Kamiah)	\$1,250,000	Purchased/ Acquired

2025 Budget Request (Enhancements)

Total FY 2025 Requested Enhancements: \$8,295,100

ONGOING ENHANCEMENT NAME	FUND SOURCE	AMOUNT
Fire Equipment - East Idaho District (operating)	General Funds	\$25,000
Fire Program Operating Increase	50/50 – GF/ Dedicated	\$250,000
Fire Program Staffing (.33 FTP)	50/50 - Dedicated/Fed	\$27,000
Good Neighbor Authority, Staffing (3 FTP)	Dedicated	\$447,700
Good Neighbor Authority, Operating	Dedicated	\$2,000,000
Forestry Asst. Program Staffing (1 FTP)	Federal	\$77,400
Fire Program Equipment (software licensing for laptops)	Dedicated	\$5,000
Administrative staff computers (software licensing)	Dedicated	\$4,200
Omnibus Decision, OITS Consolidation	General fund/Dedicated	\$97,000 (\$2,300 GF)

Total Ongoing Base Change from Enhancements \$3,054,500

2025 Budget Request (Enhancements)

Total FY 2025 Requested Enhancements: \$8,295,100

ONETIME ENHANCEMENT NAME	FUND SOURCE	AMOUNT
Fire Equipment - East Idaho District	General Funds	\$475,000
Tree Seedling Coolers	Dedicated Funds	\$506,600
Good Neighbor Authority, Staffing	Federal Funds	\$193,500
Forestry Asst. Program Staffing	Federal Funds	\$3,000
Fire Program Equipment	Dedicated	\$22,000
Recreation Program Equipment	Dedicated	\$24,000
Vehicle for GIS Equipment	Dedicated	\$45,500
Administrative staff computers	Dedicated	\$21,000
Veterans Cemetery Land Purchase	General Funds	\$3,950,000
Fire Suppression Deficiency Fund (and Transfer)	General Funds	\$17,000,000 (\$17mill)
Wildland Firefighter Bonus (approx. 400 personnel)	General Funds	\$1,000,000

Total Onetime Base Change from Enhancements \$5,240,600

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, February 28, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Minutes of February 9, 2024	Senator Den Hartog Senator Semmelroth
MINUTES APPROVAL:	Minutes of February 12, 2024	Senator Guthrie Senator Taylor
GUBERNATORIAL APPOINTMENT:	Committee Consideration of the Gubernatorial Appointment of Brody Harshbarger of Ashton, Idaho to the Idaho Fish and Game Commission for a term commencing January 24, 2024 and expiring June 30, 2027	Brody Harshbarger
<u>13-0108-2301</u>	Rules Governing Taking of Big Game Animals - Proposed Rule No further testimony will be taken.	Amber Worthington, Deputy Director, Idaho Department of Fish and Game
<u>S 1323</u>	PUBLIC UTILITIES - Amends existing law to revise terminology and to clarify specified terms.	Norman Semanko, Attorney, Parsons Behle and Latimer
<u>H 467</u>	IRRIGATION AND DRAINAGE - Amends existing law to revise provisions regarding certain special assessments.	Rep. Pickett

Public Testimony Will Be Taken by Registering Through the Following Link:
[**Register to Testify**](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw	Sen Okuniewicz
Vice Chairman Adams	Sen Schroeder
Sen Guthrie	Sen Semmelroth
Sen Den Hartog	Sen Taylor
Sen Harris	

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 28, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Burtenshaw, Vice Chairman Adams, Senators Guthrie, Den Hartog, Harris, Okuniewicz, Schroeder, Moser (Sammelroth), and Taylor

ABSENT/ EXCUSED: None

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.

MINUTES APPROVAL: **Senator Harris** moved to approve the Minutes of February 9, 2024. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the Minutes of February 12, 2024. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Committee Consideration of the Gubernatorial Appointment of Brody Harshbarger of Ashton, Idaho to the Idaho Fish and Game Commission** for a term commencing January 24, 2024 and expiring June 30, 2027. **Brody Harshbarger** presented before the Committee and shared some of his background and his interest in the Idaho Fish and Game Commission (Commission).

DISCUSSION: **Senator Harris** asked what some of Mr. Harshbarger's goals were as a Commissioner. **Mr. Harshbarger** responded that he had been involved with the Idaho Department of Fish and Game (IDFG) by going to meetings and trying to influence policy as a constituent, and he thought his insights based on this experience might benefit the Commission. His goals were to protect the wildlife of Idaho and the rights of constituents. He had concerns about the management of predator issues. **Senator Okuniewicz** asked for an example of an issue he was passionate about that he wanted to try to change as a Commissioner. **Mr. Harshbarger** responded that addressing problems with grizzly bears was the problem he was most frustrated about as a constituent. He shared some of his personal experience living with grizzly bears and his feelings about his voice not being heard when he tried to express his concerns. **Chairman Burtenshaw** asked how far Mr. Harshbarger lived from Yellowstone Park, and about his experience living so close to a grizzly bear habitat and with other predators, such as wolves. **Mr. Harshbarger** responded that he lived within 20 miles of Yellowstone Park. He shared his experience with wolves in his yard before they were de-listed and his frustration with the response by the U.S. Department of Fish and Wildlife.

**DOCKET NO.
13-0108-2301**

Rules Governing Taking of Big Game Animals - Proposed Rule. No further testimony was taken. **Amber Worthington**, Deputy Director, Idaho Department of Fish and Game presented for further discussion. **Docket No. 13-0108-2301** was presented in Committee on January 17, 2024 and testimony was heard at that meeting. **Ms. Worthington** explained changes to this Docket related to the muzzleloader only season. As a result of concerns brought by sportsmen around the availability of projectiles, IDFG engaged in negotiated rulemaking and provided public comment opportunities. Changes included removing the words non-jacketed, changing lead or lead alloy to metal or metal alloy, and providing allowance for the use of pressure bases and polymer tips.

MOTION:

Senator Okuniewicz moved to approve **Docket No. 13-0108-2301**. **Vice Chairman Adams** seconded the motion. The motion carried by **voice vote**.

S 1323

PUBLIC UTILITIES - Amends existing law to revise terminology and to clarify specified terms. **Norman Semanko**, Attorney, Parsons Behle and Latimer, stated this legislation clarified that the jurisdiction of the Idaho Public Utilities Commission (PUC) did not include corporations or others owning, controlling, or operating a water system which delivered water to a single entity that was not subject to regulation by the Commission. It also confirmed that homeowners associations, cooperative associations, and water districts were not subject to regulation by the Commission. He shared supporting case law, including the Idaho Supreme Court decision in 1924, that held that the furnishing of water to one person or corporation under a contract did not constitute a delivery of water to the public. He referred the Committee to his handout and reviewed the types of water utilities and who regulated them. (Attachment 1) He advised that without this legislation the PUC could take over regulation of these types of utilities, many of them would fold and be absorbed into multinational companies, and costs to consumers would increase.

DISCUSSION:

Chairman Burtenshaw asked for an explanation of the term "water corporation" on line 23. **Mr. Semanko** explained this was the definition of what a water corporation did not include, so if you were a small water company and you delivered to an entity that was not defined as a corporation, you were not a water corporation. He referred to the updated definition of a corporation on lines 9 to 16. **Senator Harris** asked what the PUC thought of this legislation and if they thought it would be hard to administer. **Mr. Semanko** responded that the PUC Commissioner did not agree with him on this issue, and he had not received a response to his request to meet with PUC staff regarding this legislation. **Senator Okuniewicz** asked how the water for these single entities was regulated. **Mr. Semanko** responded that nothing in this legislation affected regulation by the Idaho Department of Water Resources (IDWR), water quality regulations, or water rights.

MOTION:

Senator Schroeder moved to send **S 1323** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

H 467

IRRIGATION AND DRAINAGE - Amends existing law to revise provisions regarding certain special assessments. **Representative Pickett** explained that excessive use fees and special assessments were used as a tool by irrigation districts to provide incentives for water users to adhere to their water rights and mitigation plans. This legislation increased the statutory limit for excessive use fees from \$100 to \$300 per acre foot of excess water use. He argued that \$100 per acre foot was now too low of a penalty to be effective.

DISCUSSION: **Senator Okuniewicz** asked how many gallons of water was an acre foot. **Representative Pickett** responded that an acre foot was twelve inches of water across one acre. **Senator Okuniewicz** asked if there were other deterrents, because even \$300 per acre foot did not seem to be much to discourage people from using excess water. **Representative Pickett** explained that this legislation tried to provide a disincentive, but it also allowed discretion by the Commission to pursue different avenues to address persistent problems. He provided an example of how this disincentive could be significant when considering rental rates. **Chairman Burtenshaw** asked if by raising the price per acre foot of excess water use, were they raising the purchase price of an acre foot of water. **Representative Pickett** responded that the cost of mitigation was already expensive, and this legislation simply tried to keep up with inflation and bring the cost of excessive use to what it would have been five or ten years ago.

TESTIMONY: **Paul Arrington** testified in favor of **H 467**. He addressed some earlier questions regarding this legislation as an effective deterrent, and he added that this legislation spoke to the authorities of the groundwater district, but the director of the Department of Water Resources also had authorities, and by failing to comply with your settlement agreement, you put yourself at risk of curtailment by IDWR.

DISCUSSION: **Senator Guthrie** shared a concern that someone could abuse their water right and their mitigation plan and pay a penalty, when their water should be shut off. **Mr. Arrington** responded that he would need to give the question about the economics of the price of water in this context more thought. He clarified that this legislation allowed a penalty up to \$300 per acre foot, with the groundwater district having the discretion to set the penalty amount. This was to allow for farm related economics in all areas of the state. He agreed that addressing overuse of water outside of water rights was a challenge for everyone, but this penalty was only one tool in the overall effort.

Representative Pickett emphasized that for someone in the farming business, curtailment was a serious threat. He thought this legislation might not be enough, but it was a step in the right direction towards making sure mitigation plans were effective.

MOTION: **Senator Harris** moved to send **H 467** to the floor with a **do pass** recommendation. **Senator Schroeder** seconded the motion.

Senator Okuniewicz reserved the right to change his vote.

VOTE: The motion to send **H 467** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Adams** requested to be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:18 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

Types of Water Utilities and who regulates them

The Idaho Public Utilities Commission is given the power and jurisdiction by the Idaho Legislature to supervise and regulate every water company that is a public utility in the State of Idaho. This authority is broad enough to include the power to do all things necessary to carry out the spirit and intent of the provisions of the public utilities' laws. A water company is a public utility if it is a private entity, either corporation or person, that owns, controls, operates or manages any water system for compensation within the state. Both for-profit and non-profit companies may be regulated

IPUC Regulated Water Company - Any small water system serving more than one customer is subject to the regulatory jurisdiction of the Idaho Public Utilities Commission as provided by Idaho Code, Title 61 unless they are organized as a homeowners association, formal water district, municipality or other mutual non-profit organization represented by board members. The Commission's jurisdiction and authority is very broad and include approval of authorized service area, rates and charges, accounting and reporting requirements, service quality, customer relation's rules and customer information rules.

Home Owners Association (HOA) is a legal entity that governs a subdivision, condominium or town home development or planned community. HOA is mandatory for property owners with the development. The HOA is run by a board, which is bound by the HOA bylaws and board positions are filled by election or appointment. The HOA collects a fee assessment from all owners to maintain common areas, address legal and safety issues, and enforce restrictions that are applicable to that particular residential area. The HOA also provides residents with a platform to address common concerns of the community.

Water Association is a not for-profit organization that provides oversight for a water system. Often set up similar to a HOA, with members represented by homeowners and jurisdiction is limited to water issues in a defined area.

Water District - Created by the Idaho Department of Water Resources (IDWR), through division of the state's public streams or water supplies into water districts for which the courts have adjudicated priorities of appropriations. The director also has authority to revise the boundaries of existing districts, combine two or more districts and /or abolish districts if such action is necessary to properly administer water uses. Each active water district in Idaho has a water master who oversees water distribution within the district. Title 42 Irrigation and Drainage – Water Rights and Reclamation, Chapter 6 Distribution of Water Among Appropriators, Section 42-604.

UNREGULATED WATER COMPANIES

- Certain water companies were created using PUC guidance that companies serving one customer are not regulated, and exempt entities are not regulated. This includes HOAs, co-ops, and water districts who serve their members. But the PUC recently rescinded its guidance without notice and without taking any formal action.
- Not being regulated by the PUC has allowed these water companies to construct first-class facilities and respond quickly to market conditions and safety concerns. PUC rules would have required a lengthy, expensive and complicated “rate case” before any of these improvements could occur.
- These water companies have invested millions of dollars and operated at a loss.
- Rate increases are used to recover a portion of the capital investments. Rates are still very reasonable. With PUC regulation, rates would most likely increase.
- These water companies don’t deliver water to the public; they serve one customer, e.g., an exempt entity (HOA, co-op or water district).
- These water companies often do not operate “for profit” and do not anticipate a profit in the foreseeable future.

PUBLIC UTILITIES COMMISSION

- Regulated companies are required to gain PUC approval of debt, construction of facilities and necessary rate changes.
- The PUC has initiated inquiries into the jurisdictional status of these water companies, which have not been regulated.
- The PUC removed the “one customer” guidance from its website without public notice, comment or formal action.

S. 1323 simply codifies the PUC’s own historic guidance, which has been relied upon, and would clarify the regulation of water companies that serve one customer, including exempt entities.

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Monday, March 04, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT VOTE:	Committee Vote on the Gubernatorial Appointment of Brody Harshbarger of Ashton, Idaho to the Idaho Fish and Game Commission for a term commencing January 24, 2024 and expiring June 30, 2027	
<u>H 507</u>	TIMBER - Amends existing law to revise provisions regarding security requirements in certain actions or proceedings involving the sale of timber.	Senator Harris
<u>H 468</u>	RANGELAND - Adds to existing law to establish the Rangeland Improvement Act.	Rep. Raymond
<u>H 592</u>	DEPREDATION - Adds to existing law to provide for compensation for depredation of livestock by grizzly bear and wolves.	Rep. Raymond

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 04, 2024

TIME: 1:30 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Okuniewicz** moved to send the Gubernatorial Appointment of Brody Harshbarger of Ashton, Idaho to the Idaho Fish and Game Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

H 507 **TIMBER - Amends existing law to revise provisions regarding security requirements in certain actions or proceedings involving the sale of timber.** **Senator Harris** explained this legislation had to do with the Good Neighbor Authority (GNA), which allowed state and federal forestry agencies to enter into agreements to complete the work needed to keep forests healthy and productive. This legislation required a bond for any person or entity delaying or preventing the cutting or removal of timber by a purchaser in a GNA sale, which would allow the GNA equal footing with regular landlord timber sales.

DISCUSSION: **Chairman Burtenshaw** asked if this legislation would help towards fire abatement. **Senator Harris** responded that the GNA was created to help with preventing fires by cleaning up forests.

TESTIMONY: **Steve Thomas**, on behalf of Idaho Forest Group, testified in favor of **H 507**. He shared this legislation did two things. First, should a third party want to go to court for an injunction to stop a particular timber sale, the standard bonding was increased to be the value of the timber or the purchase price of the sale, whichever was greater. Second, this bonding requirement was expanded to include timber sales under the GNA.

MOTION: **Senator Guthrie** moved to send **H 507** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion.
Senator Okuniewicz stated he had a conflict of interest pursuant to Senate Rule 39(H) but intended to vote.

VOTE: The motion to send **H 507** to the floor with a **do pass** recommendation carried by **voice vote**.

H 468

RANGELAND - Adds to existing law to establish the Rangeland Improvement Act. Representative Raymond explained this legislation directed the Idaho Department of Agriculture to seek funding for and carry out grazing improvement projects statewide through the Grazing Board Central Committee (Grazing Board). The Grazing Board was created by the Taylor Grazing Act of 1934, and reauthorized by the Federal Land Policy Management Act (FLPMA). The Grazing Board would support and manage projects with the help of two additional volunteer members at large. Those members would be nominated by their peers in the livestock industry and appointed by the governor. This legislation also established an account for funding and expenditures for these projects.

DISCUSSION: **Senator Den Hartog** asked why the new position of a grant writer that Representative Raymond mentioned in his presentation was not included in the Fiscal Note. **Representative Raymond** responded that this was not a new position.

TESTIMONY: **Russ Hendricks**, on behalf of Idaho Farm Bureau, **Jerry Wroten**, cattle producer and President, Idaho Cattle Association, and **Patxi Larrocea-Phillips**, on behalf of Idaho Wool Growers Association, testified in favor of **H 468**. They agreed this legislation provided an opportunity to improve state and federally managed rangelands across Idaho, and that under this program there was an opportunity for cooperation between state and federal agencies to promote long term rangeland health.

DISCUSSION: **Representative Raymond** shared that when he met with the Grazing Board in November, he spoke to some Bureau of Land Management (BLM) employees, who told him that if this program was in effect ten years ago, the permit renewal process would have become seamless.

Senator Den Hartog asked if the fees noted in this legislation would be directed to the fund for grazing improvement projects. **Representative Raymond** explained that cattle producers pay fees to BLM to graze their livestock on public or BLM land, and a percentage of those fees returned to the Grazing Board for range improvement.

MOTION: **Senator Harris** moved to send **H 468** to the floor with a **do pass** recommendation. **Vice Chairman Adams** seconded the motion.

DISCUSSION: **Senator Okuniewicz** stated he was generally uncomfortable with new programs that did not provide any estimated cost to taxpayers, so he wanted to do more research before he supported this legislation.

Representative Raymond responded that their intention was to seek funding for this program through grants, and there were many grants, both government and non-government, that were available for purposes such as reducing wildfires and improving ranch conditions for wildlife.

VOTE: The motion to send **H 468** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Okuniewicz** requested to be recorded as voting nay.

DEPREDACTION - Adds to existing law to provide for compensation for depredation of livestock by grizzly bear and wolves. Representative Sauter began the presentation for Representative Raymond. He explained that this legislation established a fund for conflict prevention and livestock depredation by grizzly bears and wolves. This fund provided compensation to livestock owners and producers that had experienced livestock loss. The Idaho State Department of Agriculture (ISDA), in consultation with the Idaho Department of Fish and Game (IDFG) and the Office of Species Conservation, would manage the fund and authorize compensation to livestock owners and producers. The annual appropriation would be \$225,000, with \$150,000 dedicated to livestock depredation and \$75,000 dedicated to conflict prevention.

DISCUSSION:

Senator Okuniewicz asked if there was already a program like this one in place. **Representative Sauter** responded that there was no program for grizzly bear kills. **Senator Okuniewicz** asked if this legislation included bears and wolves. **Representative Sauter** responded that this legislation included bears and wolves, although grizzly bears were more of an issue in his area. **Senator Okuniewicz** asked if the wolf portion was redundant. **Representative Sauter** explained that the wolf depredation money was largely spent on crews to hunt and trap wolves, but there was little money offered for depredation.

Representative Raymond reviewed the funds currently available for conflict prevention and livestock depredation by grizzly bears, which were federal funds that were inconsistently available. He stated the Office of Species Conservation had well over 300 applicants for an available \$25,000. He spoke about the three most sought after funds for wolf depredation prevention, which were range riders, guard dogs, and trail cams. He reviewed the intended role of the three state agencies, IDFG, the Office of Species Conservation, and the ISDA, involved with this program.

Senator Den Hartog asked how the current Wolf Depredation Control Board (Wolf Board) would intermix with what was proposed in this legislation.

Representative Raymond responded that the role and mission of the Wolf Board was to control population, but they had no tools to address depredation. He added that the funds for this legislation were new funds, directed specifically at wolf and grizzly depredation and wolf and grizzly conflict prevention. **Senator Den Hartog** asked if the follow up legislation mentioned earlier in the meeting included anything to ensure that depredation was not compensated from both fund sources. **Representative Raymond** responded that he did not see this mechanism in H 612, but that he would defer to the presenter of that legislation.

Senator Harris asked where the money would come from to fund this legislation.

Representative Raymond responded that this legislation would be entirely supported from state general funds.

TESTIMONY:

Val Hammond, Scott Rigby, and Darcy Lammers testified in favor of **H 592**. They had operations that had been severely impacted by the financial loss caused by depredation, and they agreed that the grizzly bear population was expanding well outside of Yellowstone Park. They believed this legislation was a positive step towards state management of the grizzly bear and wolf populations. They believed a compensation program would demonstrate Idaho's commitment to responsible grizzly bear management, and would send the message that Idaho was dedicated to finding practical solutions that benefit both conservation and local communities, which would aid in building public support.

Dexton Lake, on behalf of Idaho Farm Bureau, **Sheila Hasselstrom**, with Farm Bureau and a member of the Idaho Wool Growers Association Board, and **Jerry Roden**, Idaho Cattle Association President, testified in favor of **H 592**. **Mr. Lake** agreed with prior testimony. He emphasized what an issue bears were for Idaho producers. He added that there was currently no mechanism to compensate for a bear or wolf kill that was labeled as probable, but not confirmed, and this legislation made available any funds left over at the end of the year to compensate probable cases. **Ms. Hasselstrom** shared her personal experience using a grant for depredation control from the Office of Species Conservation and how the funding had been effective.

DISCUSSION: **Senator Semmelroth** asked Mr. Hammond to explain some of his personal costs associated with the loss of livestock. **Mr. Hammond** responded that it depends on the year, but personally over the past year he had lost six percent of his livestock. **Senator Semmelroth** asked Mr. Lammers to explain how prevention dollars would help secure his livestock. **Mr. Lammers** explained why he stopped raising sheep and having honey bee hives, and he shared that prevention dollars would help with the expense of fencing and other measures to deter bears.

Senator Okuniewicz stated he would support the measure, but wanted to reserve his right to do some research and change his mind.

MOTION: **Senator Okuniewicz** moved to send **H 592** to the floor with a **do pass** recommendation. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:32 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

AGENDA
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:30 P.M.
Room WW55
Wednesday, March 06, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>H 425</u>	STATE DISASTER PREPAREDNESS - Amends existing law to revise the definition of development.	Rep. Manwaring
PRESENTATION:	Idaho Department of Water Resources Update	Mat Weaver, Director, Idaho Department of Water Resources

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 06, 2024
TIME: 1:30 P.M.
PLACE: Room WW55
MEMBERS PRESENT: Chairman Burtenshaw, Senators Den Hartog, Schroeder, and Taylor
ABSENT/ EXCUSED: Vice Chairman Adams, Senators Guthrie, Harris, Okuniewicz, and Semmelroth
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: Pursuant to Senate Rule 20(A), **Chairman Burtenshaw** stated that due to a lack of a quorum - all agenda items would be rescheduled.
ADJOURNED: **Chairman Burtenshaw** adjourned the meeting at 2:00 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:00 P.M.
Room WW55
Monday, March 11, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>RS 31608</u>	Concurrent Resolution Stating Findings of the Legislature and Approving Pending Rules of the Idaho Department of Environmental Quality Unanimous Consent Request for Referral to a Privileged Committee for Printing	Senator Burtenshaw
<u>H 425</u>	STATE DISASTER PREPAREDNESS - Amends existing law to revise the definition of development.	Rep. Manwaring
<u>H 612</u>	WOLF DEPREDATION CONTROL BOARD - Amends existing law to provide for compensation and a procedure.	Senator Harris
<u>H 614</u>	FORESTS - Amends and adds to existing law to provide for duties and authority of the Idaho Department of Lands and to provide for good neighbor authority accounts.	Senator Harris
<u>H 540</u>	FLOOD CONTROL DISTRICTS - Amends existing law to revise provisions regarding flood control districts.	Rep. Vander Woude

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
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MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, March 11, 2024

TIME: 1:00 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 1:02 p.m.

RS 31608 **Concurrent Resolution Stating Findings of the Legislature and Approving Pending Rules of the Idaho Department of Environmental Quality. Unanimous Consent Request for Referral to a Privileged Committee for Printing.** **Chairman Burtenshaw** requested unanimous consent to send **RS 31608** to print. There were no objections.

H 425 **STATE DISASTER PREPAREDNESS - Amends existing law to revise the definition of development.** **Representative Manwaring** explained this legislation amended Idaho Code §§ 46-1021(1) and 46-1022 to ensure that Idaho was compliant with the National Flood Plain Insurance Program's (NFIP) regulations. It removed an exception to the definition of development and clarified what local government floodplain zoning ordinances could regulate. This allowed local jurisdictions the ability to maintain participation in the NFIP and citizens in Idaho to acquire flood insurance.

MOTION: **Senator Schroeder** moved to send **H 425** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

H 612 **WOLF DEPREDATION CONTROL BOARD - Amends existing law to provide for compensation and a procedure.** **Senator Harris** explained this legislation would allow the Wolf Control Board (Board) to determine and pay for livestock compensation. He explained that confirming livestock kills in Idaho was difficult, because when wolves finished eating something, there was not much left to confirm. Remains were also difficult to find due to the rugged terrain shared by wolves and livestock. To determine compensation, the Board would use historic livestock loss data from the Idaho State Department of Agriculture prior to the 1995 wolf reintroduction as a base for each wolf depredation unit. He referred the Committee to his handout showing wolf depredation and depredation units. (Attachment 1) Livestock producers would report their losses to the Board each year by December 31. The Board would then determine compensation based on available funding.

DISCUSSION: **Senator Den Hartog** asked if producers could be compensated under this legislation and under H 592, which established grizzly bear and wolf depredation. **Senator Harris** responded that H 592 also provided money for prevention. **Chairman Burtenshaw** asked for an explanation of the provided map. **Senator Harris** responded that the light blue showed chronic depredation units and the yellow showed units with both chronic and predation management. He added that most of the loss due to wolf kills happened in the chronic areas.

TESTIMONY: **Jonathan Oppenheimer**, on behalf of Idaho Conservation League, **Russ Hendricks**, on behalf of Idaho Farm Bureau, and **Patxi Larrocea-Phillips**, on behalf of Idaho Cattle Association, testified in favor of **H 612**. All agreed that it was important to compensate livestock producers for livestock losses, that this compensation would help producers stay in business, and that using funds from the Wolf Control Board to reimburse for livestock losses was appropriate.

Mr. Oppenheimer also suggested that rulemaking was needed to establish rules to prevent producers from being compensated under both this legislation and H 592, and to outline exactly how the livestock loss data prior to 1995 would influence reimbursements associated with this legislation.

Mr. Hendricks also stated this legislation would not require any new funding.

Mr. Larrocea-Phillips also clarified that compensation under this legislation would not be based on an investigation, but on the difference between a producer's current come home rate compared to livestock loss data prior to 1995, and that H 592 required an investigation to validate a probable loss.

Senator Den Hartog asked Mr. Larrocea-Phillips how, since there were multiple agencies and multiple statutes involved, the legislature could prevent double payment. **Mr. Larrocea-Phillips** responded that the Director of the Idaho State Department of Agriculture and the Director of the Idaho Department of Fish and Game were joint chairmen on the Wolf Control Board, so they would both be engaged with both pieces of legislation and able to negotiate rules that prevented payment from both funds.

MOTION: **Senator Semmelroth** moved to send **H 612** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 614 **FORESTS - Amends and adds to existing law to provide for duties and authority of the Idaho Department of Lands and to provide for good neighbor authority accounts.** **Senator Harris** explained that this legislation created a new chapter in Title 38, entitled "Sustainable Management of National Forests Act." This codified the Good Neighbor Authority within state law. This legislation authorized the Idaho Department of Lands (IDL) to enhance and further implement the existing Good Neighbor Authority program, to create accounts for the program in the state Treasury, and to authorize appropriations from those accounts to carry out provisions of the Good Neighbor Authority program.

DISCUSSION: **Senator Taylor** asked which Idaho National Forest was not participating in the program, and why they were not participating. **Senator Harris** responded the Sawtooth National Forest was not participating in the Good Neighbor Authority program and that he did not know why.

TESTIMONY: **Tom Schultz**, Vice President of Resources, Idaho Forest Group, testified in favor of **H 614**. He shared some background on the Idaho Forest Group, which was one of the largest producers of softwood lumber in the United States. He spoke about the importance of forestry, and the negative effects of wildfire and the current forest health crisis resulting from lack of active timber management on public lands. He believed the Good Neighbor Authority program had been successful, and that it was well managed by IDL. He shared that in the past year, IDL had doubled the annual volume of timber sold by the state on federal lands, which represented almost 25 percent of the U.S. Forest Service volume sold within the state of Idaho. He believed this legislation would ensure that the State of Idaho maintained an active role in the management of Idaho's National Forests.

Senator Okuniewicz stated he had a conflict of interest pursuant to Senate Rule 39(H) but intended to vote.

MOTION: **Senator Okuniewicz** moved to send **H 614** to the floor with a **do pass** recommendation. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

H 540 **FLOOD CONTROL DISTRICTS - Amends existing law to revise provisions regarding flood control districts.** **Representative Vander Woude** explained this legislation updated Idaho Code § 42-31, and created or modified definitions to reflect the flood control districts' actual role in flood risk reduction, flood response, and flood recovery.

MOTION: **Senator Harris** moved to send **H 540** to the floor with a **do pass** recommendation. **Senator Den Hartog** seconded the motion. The motion carried by **voice vote**.

RS 31608 For a process clarification, **Chairman Burtenshaw** requested unanimous consent to send **RS 31608** to a privileged committee for printing. There were no objections.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 1:30 p.m.

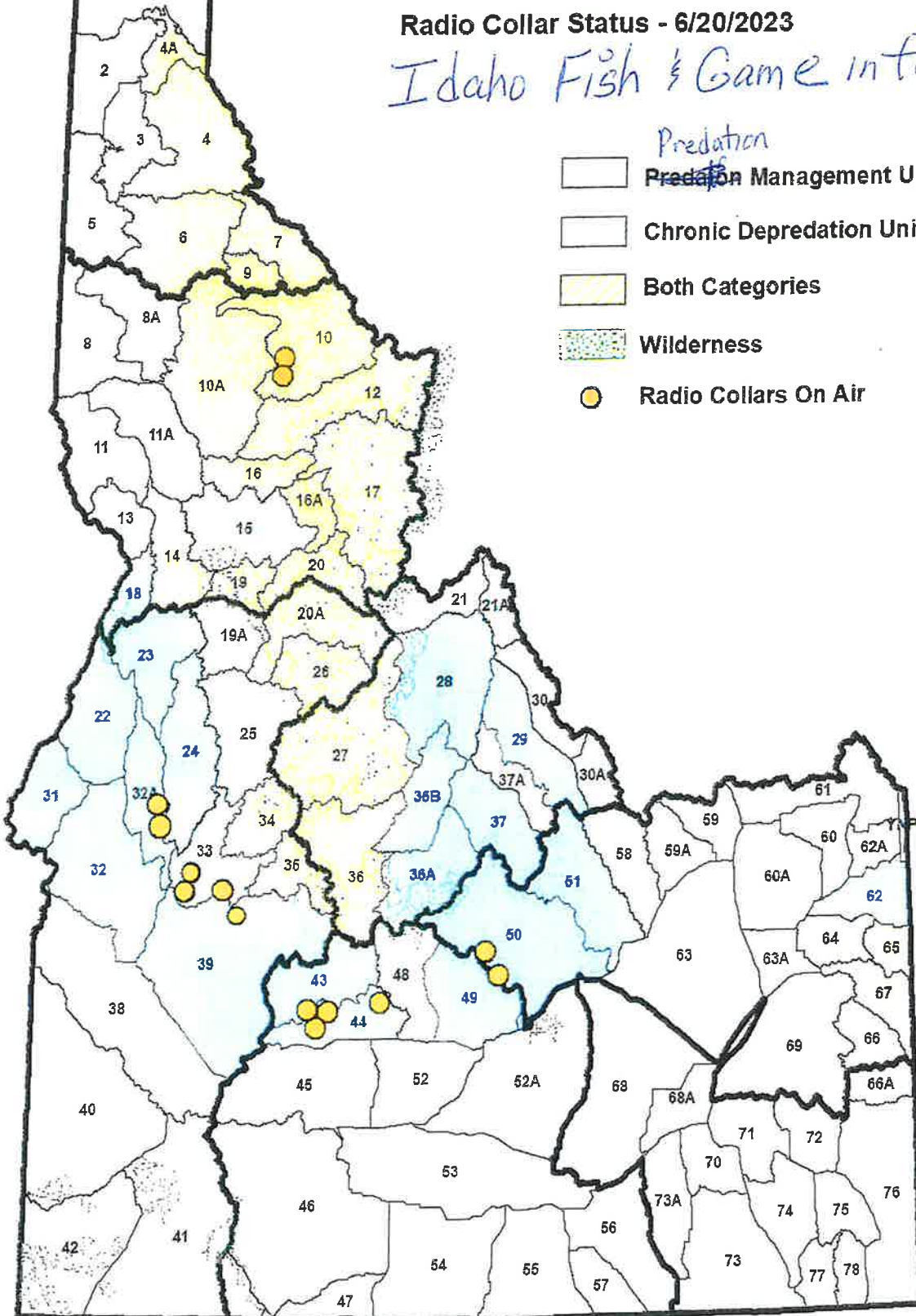
Senator Burtenshaw
Chair

Shelly Johnson
Secretary

Wolf Depredation and Predation Units

Radio Collar Status - 6/20/2023

Idaho Fish & Game information



AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:00 P.M.
Room WW55
Wednesday, March 13, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL:	Minutes of February 14, 2024	Senator Adams Senator Okuniewicz
MINUTES APPROVAL:	Minutes of February 19, 2024	Senator Schroeder Senator Harris
MINUTES APPROVAL:	Minutes of February 21, 2024	Senator Semmelroth Senator Guthrie
MINUTES APPROVAL:	Minutes of February 26, 2024	Senator Okuniewicz Senator Adams
MINUTES APPROVAL:	Minutes of March 6, 2024	Senator Den Hartog Senator Taylor
<u>RS 31634</u>	Concurrent Resolution Stating Findings of the Legislature and Approving Pending Rules of the Idaho Department of Fish and Game, the Idaho Department of Lands, the Division of Occupational and Professional Licenses, the Idaho Department of Parks and Recreation, and the Idaho Department of Water Resources Unanimous Consent Request for Referral to a Privileged Committee for Printing	Senator Burtenshaw
<u>RS 31635</u>	Concurrent Resolution Stating Findings of the Legislature and Approving Pending Rules of the Idaho Department of Lands Unanimous Consent Request for Referral to a Privileged Committee for Printing	Senator Burtenshaw
<u>H 586</u>	FISH AND GAME - Adds to existing law to require nonresidents to procure a hunting license prior to collecting, possessing, or transporting certain antlers or horns.	Rep. Burns
<u>H 687</u>	KOOTENAI RIVER - Amends and adds to existing law to provide for the Kootenai River Water Rights Adjudication.	Rep. Sauter

Public Testimony Will Be Taken by Registering Through the Following Link:
[Register to Testify](#)

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323

Sen Den Hartog
Sen Harris

Sen Taylor

Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 13, 2024

TIME: 1:00 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: None

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 1:02 p.m.

MINUTES APPROVAL: **Vice Chairman Adams** moved to approve the Minutes of February 14, 2024. **Senator Okuniewicz** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Schroeder** moved to approve the Minutes of February 19, 2024. **Vice Chairman Adams** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Semmelroth** moved to approve the Minutes of February 21, 2024. **Vice Chairman Adams** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Okuniewicz** moved to approve the Minutes of February 26, 2024. **Vice Chairman Adams** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Schroeder** moved to approve the Minutes of March 6, 2024. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Burtenshaw passed the gavel to Vice Chairman Adams.

RS 31634 **Concurrent Resolution Stating Findings of the Legislature and Approving Pending Rules of the Idaho Department of Fish and Game, the Idaho Department of Lands, the Division of Occupational and Professional Licenses, the Department of Parks and Recreation, and the Idaho Department of Water Resources.** Unanimous Consent Request for Referral to a Privileged Committee for Printing.

UNANIMOUS CONSENT REQUEST: **Vice Chairman Adams** requested unanimous consent to send **RS 31634**, which approved Idaho Department of Fish and Game, Idaho Department of Lands, Division of Occupational and Professional Licenses, Idaho Department of Parks and Recreation, and Idaho Department of Water Resources Administrative Rules reviewed by the Senate Resources and Environment Committee and the House Resources and Conservation Committee with exceptions, to a privileged committee for printing. There were no objections.

RS 31635 **Concurrent Resolution Stating Findings of the Legislature and Approving Pending Rules of the Idaho Department of Lands.** Unanimous Consent Request for Referral to a Privileged Committee for Printing.

UNANIMOUS CONSENT REQUEST: **Vice Chairman Adams** requested unanimous consent to send **RS 31635**, which approved Idaho Department of Lands Administrative Rules, Docket No. 20-0301-2301, reviewed by the Senate Resources and Environment Committee, to a privileged committee for printing. There were no objections.

PASSED THE GAVEL:

Vice Chairman Adams passed the gavel to Chairman Burtenshaw.

H 586

FISH AND GAME - Adds to existing law to require nonresidents to procure a hunting license prior to collecting, possessing, or transporting certain antlers or horns. Representative Burns explained that this legislation required that nonresidents obtain a nonresident hunting license prior to collecting, possessing, or transporting antlers or horns from deer, elk, moose, or pronghorn.

MOTION:

Senator Taylor moved to send **H 586** to the floor with a **do pass** recommendation. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**. **Senator Harris** requested to be recorded as voting nay.

H 687

KOOTENAI RIVER - Amends and adds to existing law to provide for the Kootenai River Water Rights Adjudication. Representative Sauter explained this legislation initiated the water adjudication process for the Kootenai River Basin in North Idaho. This was the last water basin in Idaho left to complete their water adjudication. The Idaho Department of Water Resources (IDWR) would be responsible for overseeing the process. There would be no new staff requirements, since after completing their work on the neighboring Pend Oreille Basin, IDWR would transfer staff to this project. This project would likely take four to five years and was supported by local water users.

DISCUSSION:

Senator Den Hartog asked for an explanation of the estimated cost of \$3.25 million over a five year period. **Representative Sauter** responded that cost was for staffing.

TESTIMONY:

Paul Arrington Director, Idaho Water Users Association, testified in favor of **H 687**. He shared that local constituents and water users were leading the effort to support and authorize this adjudication.

DISCUSSION:

Senator Semmelroth asked why the Kootenai River Basin was the last one to be adjudicated. **Mr. Arrington** responded that this was just the way it worked out. He added that there was some early resistance to adjudicating this basin, but stakeholders had come to appreciate the value of this type of a process. **Senator Dan Hartog** asked if the claim filing fees in the Fiscal Note were standard practice for the other adjudicated basins and if Idaho taxpayers paid the balance of the cost of adjudication. **Mr. Arrington** responded that other basins had a similar process for filing fees, and the balance of costs would be appropriated by the State. He added that this was consistent with how the other adjudications had been completed.

MOTION:

Senator Harris moved to send **H 687** to the floor with a do pass recommendation. **Senator Semmelroth** seconded the motion.

TESTIMONY:

Shelley Keen, on behalf of the Department of Water Resources, testified in favor of **H 687**. She agreed that this was the right time to add the Kootenai River Basin to the list of authorized adjudications, since it had widespread support with local constituents and water users.

VOTE:

The motion to send H 687 to the floor with a do pass recommendation carried by **voice vote**.

RECONSIDER:

Senator Den Hartog moved to reconsider **H 586**. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

MOTION:

Senator Harris moved to hold **H 586** subject to call of the Chair. **Vice Chairman Adams** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 1:26 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary

AMENDED AGENDA #1
SENATE RESOURCES & ENVIRONMENT COMMITTEE
1:00 P.M.
Room WW55
Wednesday, March 20, 2024

For members of the public to observe the meeting, please click on the following link:
<https://www.idahoptv.org/shows/idahoinsession/ww55/>

SUBJECT	DESCRIPTION	PRESENTER
<u>RS 31674C1</u>	Relating to Endowment Trust Lands Unanimous Consent Request for Referral to a Privileged Committee for Printing	Rep. Raymond
<u>H 586</u>	FISH AND GAME - Adds to existing law to require nonresidents to procure a hunting license prior to collecting, possessing, or transporting certain antlers or horns. No further testimony will be taken.	Rep. Burns
MINUTES APPROVAL:	Minutes of February 28, 2024	Senator Taylor Senator Den Hartog
MINUTES APPROVAL:	Minutes of March 4, 2024	Senator Harris Senator Schroeder
MINUTES APPROVAL:	Minutes of March 11, 2024	Senator Semmelroth Senator Okuniewicz
MINUTES APPROVAL:	Minutes of March 13, 2024	Senator Schroeder Senator Harris
PRESENTATION:	Acknowledgement of Page - Ashley Richardson	Senator Burtenshaw

If you have written testimony, please provide a copy to the committee secretary.

COMMITTEE MEMBERS

Chairman Burtenshaw
Vice Chairman Adams
Sen Guthrie
Sen Den Hartog
Sen Harris

Sen Okuniewicz
Sen Schroeder
Sen Semmelroth
Sen Taylor

COMMITTEE SECRETARY

Shelly Johnson
Room: WW37
Phone: 332-1323
Email: sres@senate.idaho.gov

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, March 20, 2024

TIME: 1:00 P.M.

PLACE: Room WW55

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

ABSENT/ EXCUSED: Senator Den Hartog

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 1:02 p.m.

RS 31674C1 **Relating to Endowment Trust Lands. Unanimous Consent Request for Referral to a Privileged Committee for Printing. Representative Raymond** explained that there were some entities that had expressed an interest in leasing state endowment lands for nontraditional purposes. To ensure that these entities were good stewards of state lands, this legislation required the Board of Lands and the Department of Lands to develop policy guidance for leasing activities to protect the value of the land.

DISCUSSION: **Senator Taylor** asked for an example of a nontraditional purpose. **Representative Raymond** provided two examples, one was dispersed camping, and the second was glamping. He stated glamping had been especially destructive to state lands.

UNANIMOUS CONSENT REQUEST: **Senator Guthrie** requested unanimous consent to send **RS 31674C1** to a Privileged Committee for printing. There were no objections.

H 586 **FISH AND GAME - Adds to existing law to require nonresidents to procure a hunting license prior to collecting, possessing, or transporting certain antlers or horns.** No further testimony was taken. **H 586** was presented in Committee on March 13, 2024 and testimony was heard at that meeting. **Representative Burns** provided a copy of suggested amendments (Attachment 1) and requested that the Committee send this legislation to the 14th Order of Business for amendment.

MOTION: **Senator Schroeder** moved to send **H 586** to the 14th Order of Business for possible amendment. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Taylor** moved to approve the Minutes of February 28, 2024. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Harris** moved to approve the Minutes of March 4, 2024. **Senator Schroeder** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Semmelroth** moved to approve the Minutes of March 11, 2024. **Senator Okuniewicz** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Schroeder** moved to approve the Minutes of March 13, 2024. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

- PRESENTATION:** **Acknowledgement of Page - Ashley Richardson.** Ms. Richardson shared that after high school she was moving to Virginia to work for the summer and then she was moving to California to be an au pair.
- DISCUSSION:** **Senator Burtenshaw** asked if she had any plans to continue her education. **Ms. Richardson** responded that she hoped to attend Brigham Young University and study interior design.
- ADJOURNED:** There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 1:13 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary



LEGISLATURE OF THE STATE OF IDAHO



Sixty-seventh Legislature

Second Regular Session - 2024

Moved by _____

Seconded by _____

IN THE SENATE
SENATE AMENDMENT TO H.B. NO. 586

AMENDMENT TO SECTION 1

1
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On page 1 of the printed bill, delete lines 12 through 14, and insert:
"possessing, or transporting antlers or horns shed from deer, elk, moose,
or pronghorn in this state shall be required to first procure a license en-
titling the nonresident to hunt big game as provided in chapter 4, title 36,
Idaho Code. No license shall be required for a nonresident under twelve (12)
years of age who is accompanied by a nonresident who is licensed in compli-
ance with the provisions of this section or by a resident."

CORRECTION TO TITLE

9
10
11

On page 1, in line 4, delete "HUNTING"; and in line 5, following "STATE"
insert: "AND TO PROVIDE AN EXCEPTION".