

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Monday, February 17, 2025

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Burtenshaw, Vice Chairman Hart, Senators Guthrie, Harris, Okuniewicz, Cook, VanOrden, Kohl, 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.

INTRODUCTION: **Introduction of Page - Lucy Barton.** **Chairman Burtenshaw** introduced Senate Page, Lucy Barton.

DISCUSSION: **Senator Taylor** asked Ms. Barton intended to study at University of Utah. **Ms. Barton** responded that she was looking to study political science and history, but she might change her mind after her experience with the Senate. **Senator Okuniewicz** asked what she was involved in other than her studies at school. **Ms. Barton** responded that she ran cross country for Preston High School, she recently started a club called Just Serve, where they go out and perform service in their community, and she liked to go to the archery range.

GUBERNATORIAL REAPPOINTMENT VOTE: **Senator Harris** moved to send the Gubernatorial Reappointment of **Mike Edmondson** of Boise, Idaho as Administrator of the Office of Species Conservation to the floor with the recommendation that he be confirmed by the Senate. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE: **Senator Kohl** moved to send the Gubernatorial Reappointment of **Brian Olmstead** of Twin Falls, Idaho to the Idaho Water Resource Board with the recommendation that he be confirmed by the Senate. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL REAPPOINTMENT VOTE: **Senator Taylor** moved to send the Gubernatorial Reappointment of **Albert Barker** of Boise, Idaho to the Idaho Water Resource Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Kohl** seconded the motion. The motion carried by **voice vote**.

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

S 1012

IDAHO DEPREDATING WILDLIFE APPEALS BOARD - Amends and adds to existing law to establish the Idaho Depredating Wildlife Appeals Board and to exempt the board from open meeting requirements. Chairman Burtenshaw explained this legislation created the Depredating Wildlife Appeals Board and provided an appeal option for individuals experiencing depredation from wolves, grizzly bears, black bears, and mountain lions. When an individual suffered a loss, they called the US Department of Agriculture's Animal and Plant Health Inspection Service, Wildlife Services Program (Wildlife Services), and had an investigator inspect the injured or dead animal. Wildlife Services followed a grading system of confirmed, probable, possible, or unknown, and generally only observed the body. An individual could only receive compensation via federal government grants if a depredation was confirmed. They could receive state funding from wolf and grizzly bear loss when the depredation was confirmed or probable. Confirmed depredation was also a statistic used to determine control of wildlife throughout the State. Once the federal investigator made a determination, that was the end of the investigation. This legislation would create an appeals board comprised of three experts that would view evidence, including evidence submitted by the individual suffering the loss, and reconsider the determination by the initial federal investigator.

DISCUSSION:

Senator Okuniewicz asked several questions about how the appeal and depredation reimbursement process worked. In response, **Chairman Burtenshaw** explained that if a kill was by a grizzly bear or a wolf, that fell under federal law, but if it was by a black bear or mountain lion, it fell under State law. Either way, if a kill was denied by the federal agency and later found by the new appeals board to be definitely a kill by a predator, then that individual would be eligible for reimbursement from the State. The State reimbursement came from an existing funding source and the cap amount was \$150,000. **Senator Cook** asked what gave the proposed board the authority to overturn a decision made by a federal agency. **Chairman Burtenshaw** responded that this legislation just gave producers an opportunity to appeal the decision of Wildlife Services.

TESTIMONY:

Dexton Lake, representing Idaho Farm Bureau, testified in favor of **S 1012** and provided some additional information on how this legislation would be implemented, and how State and federal funding for depredation worked, including funding cycles and available dollar amounts. He reasoned why this legislation would also aid Idaho Fish and Game (IDFG) in managing the wolf, grizzly bear, and black bear populations.

DISCUSSION:

Senator Okuniewicz asked if Mr. Lake thought Wildlife Services was being stingier about declaring a wolf kill confirmed or probable. **Mr. Lake** responded that some questioned why there was less confirmed depredation in Idaho than in prior years, and there was documented evidence of changes in investigative procedures. **Senator Kohl** asked if there were any estimates of how much depredation was legitimately taking place throughout Idaho. **Mr. Lake** responded there were some informal estimates based on the percentage of livestock that did not come home and the confirmed depredation by Wildlife Services. Legislation passed last year to better estimate wolf depredation, but that was still in the rulemaking process. **Senator Kohl** asked how much money was typically dispensed per depredation and did that fit within the fund cap. **Mr. Lake** responded that reimbursement was based on the fair market value of the animal, either the day before or the day of the depredation reporting, and if every confirmed depredation was paid, they would not reach the fund cap.

TESTIMONY: **Phil Davis** from Cascade, **Val Hammond** from Fremont County, **David Philps** from Challis, **Scott Rigby** from Madison County, and **Royce Schwenkfelder** from Cambridge, also testified in favor of **S 1012**. All shared some details on how difficult it was to find and confirm livestock kills due to depredation from wolves and grizzly bears. Some shared on how, over the last two years, the number of confirmed kills by Wildlife Services were greatly reduced, about depredation unconfirmed by Wildlife Services that was confirmed by other credible sources, and about the need for a process to appeal Wildlife Services decisions. **Mr. Hammond** spoke in favor of the part of this legislation that allowed reimbursement to producers for "possible" kills if funding allowed after confirmed or probable kills were reimbursed.

DISCUSSION: **Senator Taylor** asked Mr. Davis to clarify if he skinned carcass before Wildlife Services arrived. **Mr. Davis** responded that he had done this in the past, but he now waited for Wildlife Services to get there. **Senator Taylor** asked Mr. Davis to clarify his number of confirmed depredations over the last 30 years versus the last two years. **Mr. Davis** responded that in the last two years, he had asked Wildlife Services to inspect over 15 depredations and they had not confirmed any, but over the last 30 years he had over 80 confirmed kills. **Vice Chairman Hart** asked Mr. Hammond what his connection was to the depredation issue. **Mr. Hammond** responded that he ranched in Fremont and Clark Counties, where the incidence of depredation by grizzly bears had increased significantly. **Senator Okuniewicz** shared his opinion that if the federal government was going to impose the preservation of predators in Idaho, the burden of proof should be on them to prove that a predator did not take a producer's livestock.

MOTION: **Senator Okuniewicz** moved to send **S 1012** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion.

DISCUSSION: **Senator Taylor** expressed his support for this legislation, but shared his concerns about spending public dollars and about appeals done behind closed doors.

VOICE VOTE: The motion to send **S 1012** to the floor with a **do pass** recommendation carried by **voice vote**.

S 1062 **STATE LANDS - Amends existing law to establish requirements for commercial land use authorizations on state endowment land.** **Chairman Burtenshaw** explained this legislation clarified aspects of leases, permits, or other types of land use for commercial purposes. This legislation was intended to address problems with State lands that had been leased for recreation. It included three things:

- The State Land Board would provide notice to county commissioners when an agreement was executed involving State land in their respective communities.
- All leases, permits, and other types of land use authorizations for commercial purposes would include a provision that required compliance by the signatory with applicable county planning and zoning ordinances.
- Revenues generated from this agreement for commercial purposes were not exempt from public disclosure.

TESTIMONY: **Jonathan Oppenheimer** testified in favor of **S 1062**. **Mr. Oppenheimer** agreed that there was inconsistency in the application of planning and zoning regulations to endowment lands, that counties had valid questions about what specific limitations they could place upon those lands, and that there were valid concerns about commercial recreational activities on endowment lands.

MOTION: **Senator Taylor** moved to send **S 1062** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion.

DISCUSSION: **Senator Okuniewicz** stated he supported sending **S 1062** to the floor, but he had a few questions and reserved his right to vote against this legislation on the Senate floor. **Senator Kohl** stated he had concerns that this legislation might solve one local issue, but create more issues going forward, so he would be voting nay.

VOICE VOTE: The motion to send **S 1062** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Kohl** requested that he be recorded as voting nay.

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

S 1086 **TRESPASS - Adds to existing law to establish provisions regarding a violation of landowner rules for permissible use.** **Senator Harris** explained the purpose of this legislation was to clarify Idaho Code to ensure that when the government or a landowner allowed recreational use of their land, subject to terms or limitations, and provided notice of those terms or limitations, and a recreationist acted contrary to the terms of the permission given, then the recreationist would be cited for criminal trespass.

DISCUSSION: **Senator Okuniewicz** asked several questions related to clarifying the difference between this legislation and the law today. **Senator Harris** responded by providing examples of when someone could be charged with criminal trespass.

TESTIMONY: **David Claiborne**, Sawtooth Law Offices, representing the Idaho Recreation Council and the Idaho State All Terrain Vehicle Association, testified in favor of **S 1086**. He explained that there were some sheriffs and prosecutors in Idaho that did not believe the current language in the trespass statute was sufficient to write a trespass ticket when a landowner allowed someone onto their land with conditions, and that someone violated those conditions. This legislation attempted to clarify the language and when a trespass ticket could be written.

DISCUSSION: **Senator Kohl** asked if this legislation covered government land or private land. **Mr. Claiborne** responded that it was both, and the legislation included definitions for both a government entity and a land owner.

MOTION: **Senator Cook** moved to send **S 1086** to the floor with a **do pass** recommendation. **Senator Taylor** seconded the motion.

DISCUSSION: **Vice Chairman Hart** stated that before he supported this bill, he wanted to better understand the related trespass statutes.

VOICE VOTE: The motion to send **S 1086** to the floor with a **do pass** recommendation carried by **voice vote**. **Vice Chairman Hart**, **Senator Okuniewicz**, and **Senator Kohl** requested that they be recorded as voting nay.

S 1061 **WATER LAW - Amends existing law regarding the director's ability to issue orders regarding methodologies for determining material injury under the rules for conjunctive management.** **Senator VanOrden** explained this legislation provided that the Idaho Department of Water Resources (IDWR) Director could not issue an order establishing a new or revised methodology for determining material injury under the rules for conjunctive management of surface and groundwater resources without first giving an affected person an opportunity to request a hearing prior to the issuance of the order. It said any final order issued pursuant to this subsection would be issued no later than December 1 prior to the year such order would take affect. These changes were critical for farmers when making their farming decisions.

TESTIMONY: **Paul Arrington** testified in favor of **S 1061**. He explained the Methodology Order, which was a technical document that identified a series of steps that the IDWR Director followed throughout the year as IDWR conjunctively administrated surface and ground water on the Eastern Snake Plain Aquifer (ESPA). The final steps were a look back and determination of how the water year went and the impact or injury to surface water users with senior water rights caused by junior water users pumping from the ESPA. He hoped his legislation would allow water users some predictability.

DISCUSSION: **Senator Guthrie** asked for clarification on how the methodology could have a deadline for completion by December 1, but was then updated throughout the year. **Mr. Arrington** responded that the Methodology Order defined things like processes, timing, and the science to use when issuing orders each year, but every year, throughout the year, those orders were updated with different facts based on that particular year. The Methodology Order itself instructed IDWR on how to use the facts when issuing applied orders for the coming year.

TESTIMONY: **Brian Murdock**, testified in favor of **S 1061**. He believed IDWR and the IDWR Director needed more constraints on what they could and could not do. He spoke about his difficulties with a transient final order date and how important it was to him to have a specific date after which he could demand a hearing.

MOTION: **Senator Okuniewicz** moved to send **S 1061** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Chairman Burtenshaw** stated the **Quagga Mussels Update** and **Bird Flu Update** would be rescheduled for another meeting due to lack of time.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:58 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary