

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 26, 2025

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Burtenshaw, Vice Chairman Hart, Senators Guthrie, Harris, Okuniewicz, Cook, Kohl, and Taylor

ABSENT/ EXCUSED: Senator VanOrden

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 Cook** moved to send the Gubernatorial Appointment of **Cortney Liddiard** of Rexburg, Idaho to the Idaho Parks and Recreation Board to the floor with recommendation that he be confirmed by the Senate. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

S 1064 **CLOUD SEEDING - Amends and adds to existing law to revise provisions regarding cloud seeding.** **Senator Nichols** explained this legislation sought to enhance transparency and accountability in Idaho's cloud seeding operations. It clarified definitions, increased transparency surrounding cloud seeding operations, and introduced accurate and regular reporting, while also streamlining the existing sections of the law for better clarity and enforceability. It required the Idaho Water Resource Board (IWRB) to publish annual reports detailing operational data, including specific dates, locations, and methods used for cloud seeding operations, environmental impact assessments, public engagement efforts, including public notifications, consultations, and feedback received, and evidence of the program's effectiveness. Operators would also provide a monthly report including specific operational information to IWRB.

TESTIMONY: **Sara Allstot, Taylor Van Arsdale, Melissa Blevins, and Paul Arrington**, Idaho Water Users Association, testified in favor of **S 1064**. Most testimony concerned a lack of reporting and transparency regarding cloud seeding operations, and how any return on funding investments in cloud seeding was unclear. **Ms. Allstot** cited a few excerpts from the 2024 U.S. Government Accountability Office (GAO) Cloud Seeding Assessment. **Ms. Van Arsdale** also cited the 2024 GAO Cloud Seeding Assessment, and spoke specifically about the dangers of silver iodide and her concern about pollutants in soils. **Ms. Blevins** cited research related to the 2017 cloud seeding experiment in Idaho's Payette Basin, called Project SNOWIE (Seeded and Natural Orographic Wintertime Clouds: The Idaho Experiment). She believed this research concluded that cloud seeding could not generate a significant amount of snow. She also spoke about the dangers of silver iodide, and the need for accountability when operators use tax dollars. **Mr. Arrington** supported this legislation with some proposed amendments and requested the Committee send it to the amending order.

DISCUSSION: **Senator Guthrie** asked about water distribution as noted on page 3, line 24, which stated that water generated through cloud seeding was distributed in accordance with the prior appropriation doctrine, and why there was not a more fair distribution model. **Mr. Arrington** responded that this meant any snow that accumulated as a result of cloud seeding efforts was treated like all other snow, so it all went into the prior priority system. **Senator Guthrie** asked why one class of water user was given priority if all water users were sharing in the cost. **Mr. Arrington** responded that the likely reasoning was that if the base of water could build up with cloud seeding, then that allowed senior water right holders to have their supply longer, which meant the next in line would have theirs a little longer, and so forth.

Vice Chairman Hart asked what reporting was already being done on the cloud seeding program. **Mr. Arrington** responded that Idaho Power and some water users provided annual reports to IWRB, who oversaw the program for the State, and the Idaho Department of Water Resources (IDWR) created a web page that provided a significant amount of information about the program.

MOTION: **Senator Harris** moved to send **S 1064** to the 14th Order of Business for possible amendment. **Vice Chairman Hart** seconded the motion.

DISCUSSION: **Senator Taylor** shared a concern about including no requirement for additional funds in the fiscal note, when additional funds would be needed for staff to compile and publish an annual report. **Senator Nichols** responded that these reports were already compiled and this legislation was only putting the report requirement into Idaho Code.

VOICE VOTE: The motion to send **S 1064** to the 14th Order of Business for possible amendment carried by **voice vote**.

S 1082 **WATER - Amends existing law to provide that liens for irrigation district assessments have a first priority over other liens.** **Mr. Arrington** explained this legislation amended Idaho Code § 43-706 to clarify that liens for irrigation assessments had a first priority on the property assessed. This amendment aligned Idaho Code § 43-706 with Idaho Code § 42-906, 42-2201, and 42-5240. This conformed the Irrigation District Code with other assessment codes in Idaho statute.

MOTION: **Senator Cook** moved to send **S 1082** to the floor with a **do pass** recommendation. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

S 1084 **WATER SUPPLY BANK - Amends existing law to provide that the forfeiture period restarts upon removal of a water right from the water supply bank.** **Mr. Arrington** explained this legislation amended Idaho Code § 42-1764 to provide that the five year forfeiture clock started over when a water right was removed from the water supply bank.

MOTION: **Senator Taylor** moved to send **S 1084** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

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

S 1128

WATER MANAGEMENT ACCOUNT - Adds to existing law to provide for the funding of water infrastructure projects. Chairman Burtenshaw explained this legislation allocated an additional \$30 million for ongoing investments into water infrastructure. This would be administered by IWRB. These funds continued a statewide approach to responsible water management that maintained and secured Idaho's water. He referred to his handout reflecting projects funded by IWRB from 2020 to 2025 from the Revolving Development Account, Water Management Account, Secondary Aquifer Planning, Management, and Implementation Fund, and State American Rescue Plan Act Funds (Attachment 1).

Projects included aquifer recharge, groundwater management, development and rehabilitation of water storage and conveyance system, water supply and delivery improvements, and emergency water infrastructure repairs. No more than 50 percent of the funds could be used in one of the four water board districts unless there were no competing applications in other districts during the fiscal year. Annual reports to the Governor and Legislature were required, and funds could be combined with other sources.

TESTIMONY: **Paul Arrington**, Idaho Water User's Association, **Douglas Jones**, Idaho Water Engineering, and **Braden Jensen**, Idaho Farm Bureau Federation, testified in favor of **S 1128**. All believed this investment provided a good return that would last well into the future. **Mr. Arrington** referred the Committee to the Idaho Water Users Association letter of support (Attachment 2). **Mr. Jones** shared he anticipated applying for some of these funds for a project involving Lost Valley Reservoir.

MOTION: **Senator Guthrie** moved to send **S 1128** to the floor with a **do pass** recommendation. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

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

DOCKET NO. 37-0302-2401 **Beneficial Use Examination Rules (ZBR Chapter Rewrite) - Pending Rule.** No further testimony was taken. **Phil Hummer**, Water Rights Section Manager, IDWR, stated that when this rule docket was presented at an earlier meeting, the Committee had some questions regarding the definition of beneficial use. Some additional information to address this definition had since been provided to the Committee. He asked if the Committee would like him to present on this information in detail, or to simply stand for questions.

DISCUSSION: **Vice Chairman Hart** asked if and where there was a definition of beneficial use in statute. **Mr. Hummer** responded that there was no comprehensive statutory definition of a beneficial use, and he reviewed his memorandum regarding the definition of beneficial use dated February 3, 2025 (Attachment 2).

MOTION: **Senator Cook** moved to approve **Docket No. 37-0302-2401**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 20-0313-2401 **Administration of Cottage Site Leases on State Lands (ZBR Chapter Rewrite) - Pending Rule**, page 15. **Jason Laney**, Leasing Section Manager, Idaho Department of Lands (IDL), referred the Committee to the 2025 Senate Resources and Environment Pending Rules Review Book, starting on page 15. He reviewed IDL's authority, IDL's reason for entering negotiated rulemaking, and a summary of the rulemaking process. Rulemaking was completed in compliance with Executive Order 2020-01, Zero-Based Regulation. He stated the pending rule streamlined the rule language.

MOTION: **Senator Taylor** moved to approve **Docket No. 20-0313-2401**. **Vice Chairman Hart** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 20-0314-2401 **Rules Governing Grazing, Farming, and Conservation Leases (ZBR Chapter Rewrite) - Pending Rule**, page 18. **Addie Faust**, Natural Resource Leasing Program Manager, IDL, referred the Committee to the 2025 Senate Resources and Environment Pending Rules Review Book, starting on page 18. He reviewed IDL's authority, IDL's reason for entering negotiated rulemaking, and a summary of the rulemaking process. Rulemaking was completed in compliance with Executive Order 2020-01, Zero-Based Regulation. She stated the pending rule removed redundant language within the rule and verbiage from the rule text, but there were no changes to the context of the rule. **Ms. Faust** noted the primary suggested revision during negotiated rulemaking was to modify the 180 day notice period for a change of use to the end of the lease term. IDL determined that this change would be contrary to their fiduciary obligation, and would present problems if IDL wanted to shift to new and more profitable uses of endowment land. For this reason, the suggested change was not included in the proposed rule.

DISCUSSION: **Senator Harris** asked for clarification on why IDL believed that modifying the 180 day notice period in Section 50, Subsection 02 went against IDL's responsibilities. **Ms. Faust** responded that IDL believed that not being able to change the use of land until the end of a lease term, which could be up to 40 years, did not allow IDL to meet their fiduciary obligation.

TESTIMONY: **Russ Hendricks**, Idaho Farm Bureau Federation, and **Patxi Larrocea-Phillips**, Idaho Wool Growers Association and Idaho Cattle Association, testified against approval of **Docket No. 20-0314-2401**, specifically Section 50, Subsection 02. Their concern was that the way the rule was written, regardless of the lease term, any state grazing lease was only guaranteed for six months because at any time the lease could be canceled with six months notice.

DISCUSSION: **Senator Harris** asked if the Committee rejected Section 50, Subsection 02 of this rule, what kind of action did they need to take. **Jim Elbin**, Division Administrator Over Trust Lands, IDL, responded that the Committee would need to make a motion to strike the rejected language in that rule.

MOTION: **Senator Harris** moved to approve **Docket No. 20-0314-2401**, except for Section 50, Subsection 02. **Senator Cook** seconded the motion. The motion carried by **voice vote**.

MOTION: **Senator Harris** moved to strike final rule **IDAPA 20.03.14 Section 50, Subsection 50**. **Senator Cook** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 20-0315-2401 **Rules Governing Geothermal Leasing on Idaho State Lands (ZBR Chapter Rewrite, Fee Rule) - Pending Rule**, page 31. **Mike Murphy**, Minerals Leasing Program Manager, IDL, referred the Committee to the 2025 Senate Resources and Environment Pending Rules Review Book, starting on page 31. He reviewed IDL's authority, IDL's reason for entering negotiated rulemaking, and a summary of the rulemaking process. Rulemaking was completed in compliance with Executive Order 2020-01, Zero-Based Regulation. He explained the consequential changes to this rule were minimal and no changes were made to the fees associated with this rule.

MOTION: **Senator Harris** moved to moved to approve **Docket No. 20-0315-2401**. **Senator Cook** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 20-0316-2401 **Rules Governing Oil and Gas Leasing on Idaho State Lands (ZBR Chapter Rewrite, Fee Rule) - Pending Rule**, page 48. **Mr. Murphy** referred the Committee to the 2025 Senate Resources and Environment Pending Rules Review Book, starting on page 48. He reviewed IDL's authority, IDL's reason for entering negotiated rulemaking, and a summary of the rulemaking process. Rulemaking was completed in compliance with Executive Order 2020-01, Zero-Based Regulation. He explained this pending rule streamlined language, removed definitions also defined in statute, and changed language to clarify the leasing of pooled or unitized acreages, which was a standard industry practice.

DISCUSSION: **Senator Taylor** asked for a quick explanation for the large amount of stricken language at the end of the proposed rule. **Mr. Murphy** responded this section addressed their insurance requirements, and what was required was for lessees to have insurance and have it be current, so in this rule they simply made that statement and removed the specifics, which would be included in the lease terms as required.

MOTION: **Senator Taylor** moved to moved to approve **Docket No. 20-0316-2401**. **Senator Cook** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 20-0401-2301 **Rules Pertaining to Forest Fire Protection (ZBR Chapter Rewrite) - Pending Rule**, page 65. **Josh Harvey**, Fire Management Bureau Chief, IDL, referred the Committee to the 2025 Senate Resources and Environment Pending Rules Review Book, starting on page 65. He reviewed IDL's authority, IDL's reason for entering negotiated rulemaking, and a summary of the rulemaking process. Rulemaking was completed in compliance with Executive Order 2020-01, Zero-Based Regulation. He explained changes to this rule included more descriptive section headings and some better organized sections, but there were no substantive changes.

MOTION: **Senator Taylor** moved to moved to approve **Docket No. 20-0401-2301**. **Senator Cook** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 20-0402-2301 **Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws (ZBR Chapter Rewrite) - Pending Rule**, page 76. **Mr. Harvey** referred the Committee to the 2025 Senate Resources and Environment Pending Rules Review Book, starting on page 76. He reviewed IDL's authority, IDL's reason for entering negotiated rulemaking, and a summary of the rulemaking process. Rulemaking was completed in compliance with Executive Order 2020-01, Zero-Based Regulation. He explained rule section headings were revised to be more descriptive and some sections were better organized for ease of understanding and improved compliance. New definitions were added and terms were modified to align with like terms in the Rules Pertaining to Forest Fire Protection, and the Rules Pertaining to the Idaho Forest Practices Act. Verbiage inconsistency was eliminated. There were no new requirements or substantive changes.

MOTION: **Senator Cook** moved to moved to approve **Docket No. 20-0402-2301**. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
20-0702-2401**

Rules Governing Conservation of Oil and Natural Gas in the State of Idaho (ZBR Chapter Rewrite) - Pending Rule, page 92. **James Thum**, Oil and Gas Program Manager, IDL, referred the Committee to the 2025 Senate Resources and Environment Pending Rules Review Book, starting on page 92. He reviewed IDL's authority, IDL's reason for entering negotiated rulemaking, and a summary of the rulemaking process. Rulemaking was completed in compliance with Executive Order 2020-01, Zero-Based Regulation. He explained no changes were made to the fees associated with this rule. There were three substantive changes to this rule chapter:

- Section 040, page 101, the public comment period was reduced from fifteen days to ten days to align with Idaho Code § 47 Chapter 3, Section 316.
- Section 500, page 128, time frames were set to limit the amount of time an oil or gas well can remain in active status without production.
- Section 501, page 128, time frames were set to limit the amount of time an oil or gas well can remain in inactive status before it must be plugged and abandoned.

MOTION: **Senator Kohl** moved to moved to approve **Docket No. 20-0702-2401**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

DISCUSSION: **Chairman Burtenshaw** asked Dustin Miller, Director, Idaho Department of Lands, to speak about any new tools to address fire fighting and fire preparedness. **Mr. Miller** thanked the Committee for their support of IDL's efforts to continue to modernize their wildland fire program. He believed IDL needed to continue to adapt to ensure that they responded quickly to wildfires to keep them small and protect Idaho's natural resources, their private property, and the lives of their citizens and firefighters. They had been moving forward with fire suppression resources and increasing suppression capabilities, including using cameras, which could detect smoke more quickly than the human eye. They intended to increase their number of cameras used to detect fires, and there was a recommendation in the IDL budget to fund fire detection via satellite.

ADJOURNED: There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 3:02 p.m.

Senator Burtenshaw
Chair

Shelly Johnson
Secretary