

MINUTES  
**SENATE RESOURCES & ENVIRONMENT COMMITTEE**

**DATE:** Monday, March 02, 2026

**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.

**MINUTES APPROVAL:** **Senator Harris** moved to approve the Minutes of February 9, 2026. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

**MINUTES APPROVAL:** **Senator Kohl** moved to approve the Minutes of February 11, 2026. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

**S 1328** **DEPARTMENT OF LANDS - Amends existing law regarding counsel for the Department of Lands.** **Senator Harris** explained that S 1292 (2024) allowed the Idaho Department of Lands (IDL) to hire its own legal counsel rather than rely exclusively on the Attorney General's Office (OAG). After its passage, questions arose between the OAG and IDL about how responsibilities should transition. **S 1328** was designed to clarify the duties for each office. **S 1328** made technical corrections to Idaho Code to align statutes with IDL's existing legal structure. It replaced references to "Attorney General" with "General Counsel for the Department of Lands" under Section 58-120 across multiple code sections and preserved the Attorney General's (AG) role in specific cases. This legislation provided clearer authority for IDL to handle enforcement actions, sped up case processing, reduced the AG's caseload, and ensured clarity for IDL staff and opposing counsel. It also confirmed the State Board of Land Commissioners' (Land Board) existing authority to use IDL's General Counsel or hire other counsel.

**DISCUSSION:** **Vice Chairman Hart** asked for the original reasoning behind S 1292. **Senator Harris** responded that many saw having the AG's employees within IDL as a conflict of interest. The AG was the only member of the Land Board that had attorneys in IDL and IDL was an enforcement arm of the of the Land Board.

**TESTIMONY:** **Phil Skinner**, Chief Deputy, OAG, testified against **S 1328**. He stated that the Idaho Supreme Court had held that while the Legislature could add duties to constitutional officers, it could not remove the core, defining functions of those officers and give them to others. For the AG, two of those core functions were:

- Representing the State in court, and
- Serving as legal counsel to constitutional entities, including the Land Board.

The OAG argued that **S 1328** violated those principles in two ways:

- It removed the AG as legal counsel to the Land Board.

- It transferred sovereign litigation authority, or the authority to bring actions in the name of the State, to attorneys employed by a statutory agency, IDL.

He believed this legislation was not merely technical or conforming, but instead made substantive structural changes. He argued that this legislation would remove the ability of the AG, or even the Land Board, to question the legality of actions taken by IDL.

#### **DISCUSSION:**

**Senator Guthrie** asked if members of the Legislature were in violation of the Idaho Constitution when they hired counsel outside of the OAG. **Mr. Skinner** stated they may be, but he felt this situation was more egregious because, although it was not explicitly stated in the Constitution, the minutes and the notes from the drafters of Idaho's Constitution included repeated statements suggesting that when the drafters put the AG on the Land Board, they did so deliberately because they believed this board needed to include a legal advisor. He added that IDL was intended to be an enforcement arm of the Land Board, not a separate and independent entity. **Senator Guthrie** asked if there had ever been an event where outside counsel was hired because the AG felt he had a conflict of interest. **Mr. Skinner** responded that he did not know, but added that when it came to conflicts of interest, court cases recognized that attorneys general, because of their constitutional responsibilities, inevitably found themselves in situations where other attorneys would not have been allowed to proceed.

**Senator Taylor** asked if the OAG believed S 1292 passed in 2024 was unconstitutional. **Mr. Skinner** responded that they were concerned that it was, but were trying to defer to the Legislature as the policy maker and work with the legislation. **Senator Taylor** asked why it had taken so long for the OAG to address their concerns about constitutionality. **Mr. Skinner** stated they were trying to make it work, but thought they would eventually end up in court arguing over the constitutionality of S 1292 (2024).

**Vice Chairman Hart** asked if there were other agencies within Idaho government where there was a legal department separate from the AG's office. **Mr. Skinner** responded that there were some, such as the Division of Occupational Licences. **Vice Chairman Hart** asked if, since the creation of the Land Board, any designated member had their responsibility restricted in the same way that the AG's was by this legislation. **Mr. Skinner** responded that he was not aware of any case where this happened.

**Senator Guthrie** asked if this legislation would help or not help IDL. **Dustin Miller**, Director, IDL, responded that IDL had a good relationship with the OAG and staff and they work closely with them, but implementation of S 1292 (2024) had caused some representation confusion and this legislation would provide some clarity.

**Senator Cook** asked for an example of conflict or confusion between legal counsel for IDL and for the OAG. **John Richards**, General Counsel, IDL, provided two recent examples. One was where attorneys for IDL were representing the Land Board and attorneys for the OAG were representing the State of Idaho on the same fire cost recovery claim. On that case, opposing counsel reached out to the OAG and asked for clarification on who they needed to contact to discuss a settlement. **Chairman Burtenshaw** asked if **S 1328** would resolve this problem. **Mr. Richards** believed that it would, because it made clear that everything ran through the Land Board and IDL. **Mr. Richards** continued with his second example, which was, IDL attorneys, in response to a question from a concerned party, filed a motion to provide an amicus brief to the court to explain an issue and walk through it, and then the OAG moved to strike IDL's motion asserting that was not within their legal authority to file. **Senator Cook** asked if Mr. Richards was General Counsel before S 1292 was

passed in 2024. **Mr. Richards** responded S 1292 went into effect July 1, 2024 and he was hired in September of 2024. **Senator Cook** stated there were other departments that had a General Counsel, such as the Idaho Department of Health and Welfare (IDHW), and if Mr. Richards could clarify why these agencies might be different. **Mr. Richards** responded that he did not have knowledge of the statutory parameters around those roles.

In response to Senator Cook's earlier question, **Mr. Skinner** clarified the IDHW attorneys were Deputies of the AG. There were a small handful of state entities that had their own attorneys, but IDHW was not one of them. He repeated his concerns about the constitutionality of S 1292 (2024) and **S 1328**.

**Senator Okuniewicz** asked if the Legislature was out of line when they hired their own attorneys to file suit. **Mr. Skinner** responded if they were extreme, they could argue that no one in the entire state could have their own attorney and must be represented by the OAG, but this was a most egregious case because the AG was removed from representing the state of Idaho in court. **Senator Kohl** asked if Mr. Skinner foresaw potential litigation as a result of passing this legislation. **Mr. Skinner** responded that he thought it was inevitable.

**Senator Harris** stated that if S 1292 (2024) was so egregious, this should have been addressed two years ago, or later when the Land Board voted to implement the policy.

**Senator Cook** asked if there was anything in this legislation that said that IDL could not ask the OAG to represent them. **Senator Harris** responded no, the Land Board could hire whoever they wanted if they felt the need. **Senator VanOrden** asked if this legislation was just bringing Title 38 in line with Title 58. **Senator Harris** responded that this was correct, it moved language out of Idaho Code Title 38 into Title 58.

**MOTION:** **Senator Guthrie** moved to send **S 1328** to the to the floor with a **do pass** recommendation. **Senator Cook** seconded the motion.

**SUBSTITUTE MOTION:** **Vice Chairman Hart** moved to hold **S 1328** in Committee. **Senator Kohl** seconded the motion.

**DISCUSSION:** **Vice Chairman Hart** stated he believed S 1292 (2024) and **S 1328** ran contrary to the original intent for including the AG on the Land Board, he saw the AG as having direct contact with the people and managing their assets, and he did not think the Legislature had the power to restrict the AG's authority in a constitutional function such as the Land Board.

**ROLL CALL VOTE:** **Senator Guthrie** requested a roll call vote on the substitute motion. **Vice Chairman Hart** and **Senator Kohl** voted aye. **Chairman Burtenshaw** and **Senators Guthrie, Harris, Okuniewicz, Cook, VanOrden,** and **Taylor** voted nay. The motion failed.

**DISCUSSION:** **Senator Okuniewicz** stated he would support the original motion, but reserved his right to change his vote on the Senate floor. He believed the issues around this legislation were complex and wanted time to learn more about the constitutionality of this legislation.

**ROLL CALL VOTE:** **Chairman Burtenshaw** called for a roll call vote on the original motion. **Chairman Burtenshaw** and **Senators Guthrie, Harris, Okuniewicz, Cook, VanOrden,** and **Taylor** voted aye. **Vice Chairman Hart** and **Senator Kohl** voted nay. The motion passed.

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

**DOCKET NO.  
13-0103-2501**

**Public Use of Lands Owned or Controlled by the Department of Fish and Game (ZBR Chapter Rewrite)- Pending Rule**, p. 4. **Amber Worthington**, Deputy Director, Idaho Department of Fish and Game (IDFG), explained the three rules dockets on the agenda were initiated in compliance with the Governor's Zero-Based Regulation Executive Order. Each set of the rules underwent the traditional negotiated rulemaking process where the public and or interested parties were directly engaged and their comments taken into account when making changes to the rules.

**Ms. Worthington** explained **Docket No. 13-0103-2501** affected only public use of lands owned or managed by IDFG. Changes that were not directly addressed were changes to clean up, clarify, or simplify existing language. Notable changes were:

- Section 010.02, page 6, added a definition for camping for better enforceability.
- Section 010.06, page 6, added a definition for leash for better enforceability. This had been tested due to the popularity of electronic collars.
- 100.01, page 7, language modified to address camping concerns and clarify flexibility and stay limits around specific areas used for camping.
- 100.01.g, page 7, added prohibition of exploding targets to prevent fires.
- 100.01.o, page 7, added prohibition of airsoft guns primarily to prevent litter.

**DISCUSSION:**

**Vice Chairman Hart** asked for an example of a campsite or property owned by IDFG. **Ms. Worthington** responded they had campgrounds in Region 3, some places to stay for hunters, and some places to stay at their fishing access sites. **Vice Chairman Hart** asked if those were areas posted as sportsman's access. **Ms. Worthington** responded sometimes, and camping areas would be posted.

**MOTION:**

**Senator Guthrie** moved to approve **Docket No. 13-0103-2501**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
13-0116-2401**

**Trapping of Wildlife and Taking of Furbearing Animals (ZBR Chapter Rewrite)- Pending Rule**, p. 62. **Ms. Worthington** referred the Committee to the 2026 Senate Resources and Environment Committee Pending Rules Review Book, starting on page 64. She explained changes that were not directly addressed were changes to clean up, clarify, or simplify existing language. Notable changes were:

- Section 010.01, page 64, Definitions, the word "natural" was added to bait in reference to liquid scent. This was requested by trappers to differentiate between visible bait and invisible bait, which was natural liquid scent. This allowed trappers to place that scent or liquid bait within 30 feet of a set.
- Section 200.03.c, page 66, the trapping reimbursement rate for non-target species was increased to \$25 to incentivize reporting of non-target species for management purposes. Lynx and wolverine were moved to a separate section for reporting, which was on page 68.
- Section 450.03.i, page 67, added a provision for the director or regional supervisor to authorize placing sets on snow-covered routes that would have alternatively been deemed closed for trapping purposes.
- Section 450.03.ii, page 67, added language that clarified that trap sets could be placed under bridges and in culverts that were part of a public highway right of way, except when those structures were part of a wildlife crossing.
- Section 455.01.b, allowed for trapping of gray wolves on private property within one half mile of an active agency feeding site.

- Section 500, page 68, added listed endangered species to reporting of any capture within 24 hours.
- Section 800.01, page 69, changed language to provide more flexibility in submitting trapping reports and to align with current practice by removing the July 31 deadline.

**DISCUSSION:** **Chairman Burtenshaw** asked for the purpose behind not having a set trap close to a live bait trap. **Tricia Hebdon**, Assistant Chief of Wildlife, IDFG, responded the reason was to avoid drawing non-target species to those traps. **Chairman Burtenshaw** asked if it was acceptable if he was 40 feet from live bait. **Ms. Hebdon** responded yes, that 40 feet would be acceptable. The thinking was that 40 feet would be far enough away to avoid causing any inadvertent trappings.

**MOTION:** **Senator Okuniewicz** moved to approve **Docket No. 13-0116-2401**. **Senator Taylor** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO. 13-0119-2501** **Rules for Selecting, Operating, Discontinuing, and Suspending Vendors (ZBR Chapter Rewrite)- Pending Rule**, p. 72. **Ms. Worthington** referred the Committee to the 2026 Senate Resources and Environment Committee Pending Rules Review Book, starting on page 74. She explained changes that were not directly addressed were changes to clean up, clarify, or simplify existing language. Notable changes were:

- Section 100, page 74, vendor classifications were removed as this was not in line with current practice.
- Section 101.01, page 75, "community benefit" was added to selection factors, and "low-numbered vendors" was removed.
- Sections 101.08, page 76, the violations section was modified to include violations by store employees and contract violations as elimination factors in the selection process. There was similar language in Section 121.
- Section 102, page 76, the active vendor ceiling was reduced from 475 to 400.
- Section 110, page 76, language was changed explaining that the department will no longer accept out-of- state vendor applications.
- Section 121.02.a.iv and b.i, page 77, added language around termination or suspension.
- Section 121.03, pages 77 and 78, raised the transaction threshold for existing vendors, modified the type from documents to transactions, and added discretion for below minimums for small rural communities and seasonal vendors.
- Section 157, page 79, added a new section to provide the ability for licensed vendors to collect a credit card process fee equal to the amount charged to them by their bank.

**DISCUSSION:** **Senator Guthrie** asked since credit card fees varied by card, how vendors would know what fee to charge. **Ms. Worthington** responded that was the percentage that their bank charged them as a transaction fee.

**MOTION:** **Senator VanOrden** moved to approve **Docket No. 13-0116-2401**. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.  
26-0120-2501**

**Rules Governing the Administration of Park and Recreation Areas and Facilities (Fee Rule)- Pending Rule**, p. 172. **Susan Buxton**, Director, Idaho Department of Parks and Recreation, reviewed the rulemaking process for this docket. This pending rule updated fees and standards, and removed redundant and unnecessary sections. It removed two sections from the winter recreation programs that were already covered in Idaho Code. It included proposed fee caps to address the rising service maintenance, electricity, and water costs. All fees, except for campsite fees, had been charged at the maximum rate for several years and were not keeping up with rising costs. She spoke to each fee cap increase request and the justification behind it:

- Section 075, page 177, added additional language regarding enforcing rules, although **Ms. Buxton** believed this was redundant and requested the Committee reject Section 075.
- Section 204.02, page 177, removed Subsections that were already covered in Idaho Code.
- Section 245, page 178, increased fee collection surcharge from \$25 to \$35. This was essentially a fine for people who used park facilities, but did not pay for them.
- Section 247, page 178, increased Daily Motor Vehicle Entry Fee (MVEF) from \$7 to \$10, Annual MVEF from \$80 to \$100, and Commercial Vehicle Entrance Fee from \$50 to \$100. The Daily and Annual MVEF applied to mostly non-residents, as residents that frequented Idaho State Parks purchased a \$10 Idaho State Parks Passport. The Commercial Vehicle Entrance Fee would apply to commercial activities, such as tour buses.
- Section 250, page 178 and 179, increased individual or facility campsite fees. **Ms. Buxton** requested the Committee reject Section 250, so that some additional categories could be added to ensure affordability for Idaho families while also covering costs for things like bus loads of visitors and electric vehicles.
- Section 254, page 179, increased the reservation service charge for group campsites or facilities from \$25 to \$50. These were for large groups and were difficult to replace if canceled.
- Section 256, page 179 and 180, increased fees for Vessel Launching from \$7 to \$10, overnight moorage at dock or buoy, person staying at campsite from \$9 to \$10, and overnight moorage at buoy, person staying on vessel from \$9 to \$10. These increases were to make fees consistent with the motor vehicle entry fee of \$10.

**DISCUSSION:**

**Vice Chairman Hart** asked if the fees in Section 256 were per-person fees. **Susan Buxton** responded that they were per-boat.

**MOTION:**

**Senator Okuniewicz** moved to approve **Docket No. 26-0120-2501** with the exception of Sections 075 and 250. **Senator Harris** seconded the motion.

**Senator Okuniewicz** cited the finding of fact for his motion: **Docket No. 26-0120-2501** Sections 075 and 250 were rejected because they allowed for a potentially unreasonable increase in charges to Idaho residents, which was disallowed under Idaho Code 67-4223(7). In addition, in 2021, the Legislature passed H 93, which required IDPR to implement fee increases for non-residents before attempting to increase any fee or fees for Idaho residents.

**VOICE VOTE:**

The motion to approve **Docket No. 26-0120-2501** with the exception of Sections 075 and 250 carried by **voice vote**.

**PASSED THE  
GAVEL:**

Vice Chairman Hart passed the gavel to Chairman Burtenshaw.

**ADJOURNED:**

There being no further business at this time, **Chairman Burtenshaw** adjourned the meeting at 2:56 p.m.

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Senator Burtenshaw  
Chair

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Shelly Johnson  
Secretary