

MINUTES  
**SENATE TRANSPORTATION COMMITTEE**

**DATE:** Thursday, February 28, 2013

**TIME:** 1:30 P.M.

**PLACE:** Room WW53

**MEMBERS PRESENT:** Chairman Brackett, Vice Chairman Johnson, Senators Keough, Winder, Rice, Nonini, Hagedorn, Bock and Buckner-Webb

**ABSENT/  
EXCUSED:**

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the Senate Transportation Committee (Committee) office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman Brackett** called the meeting to order at 1:30 p.m. and asked the secretary to take a silent roll. With a quorum present, **Chairman Brackett** moved to the first item on the agenda and called for a motion on the minutes of the January 31 meeting.

**MOTION:** **Senator Winder** moved that the minutes of the January 31 Committee meeting be approved. **Senator Keough** seconded the motion. The motion carried by unanimous **voice vote**.

**Chairman Brackett** outlined the process by which today's hearing would be conducted. First, the **Chairman** brought the Committee's attention to the Attorney General's opinion letter in their packets regarding the 129,000 pound load truck issues. He said that a Deputy Attorney General is present to answer questions, if necessary. Second, the Committee will hear a policy analysis of the two bills (**S 1064** and **S 1117**) from Scott Stokes, Chief Deputy Director at the Idaho Transportation Department (ITD). Third, **S 1064** will be presented by Roy Eiguren of Arkoosh Eiguren PLLC. Fourth, **S 1117** (this bill's predecessor, S 1066, is being held in Committee) will be presented by Jim Riley of Riley and Associates LLC. As we move through the presentations, Committee members will have an opportunity to ask questions. Fifth, we will hear testimony from those signed up to testify, pro and con on both bills. Because of the time constraint, testimony will be limited to three minutes each. Committee members will be given an opportunity to ask questions of those testifying. Finally, **Chairman Brackett** said he would ask for motions on each bill, first **S 1064** and then **S 1117**, at the end of the hearing.

**PRESENTATION:** **Chairman Brackett** welcomed Mr. Stokes to the Committee and asked him to give a policy analysis from ITD's perspective on the two bills before the Committee. **Mr. Stokes** gave an overview of how ITD views the bills with regards to trucks hauling up to 129,000 pounds on Idaho roadways. He said that ITD has done studies on how they would make recommendations to designate new routes; they would look at the accumulated data from the pilot program's designated routes. There are two primary criteria: safety and integrity of the infrastructure. Analysis does exist for bridges and local highway systems. There are "rating" systems and criteria for measuring stress limits, off-tracking requirements and load restrictions. ITD would then make recommendations to the Idaho Transportation Board (Board), as has been the procedure in the past. **Mr. Stokes** stood for questions.

**Chairman Brackett** thanked Mr. Stokes and mentioned to the Committee that in their packets ITD had provided a document containing frequently asked questions on this topic, with ITD's responses to each. The **Chairman** asked for questions from the Committee for Mr. Stokes.

**Senator Keough** asked what legal authority ITD has to ensure that their established criteria is followed by local jurisdictions. **Mr. Stokes** cited ITD's size and weight requirements that they enforce. With regard to routes, **Mr. Stokes** was not aware of any authority stipulating that local jurisdictions have to follow ITD criteria.

**Senator Nonini** referred to a map in Committee packets that Senator Keough had provided. He said he had heard that ITD had a red route map. **Mr. Stokes** said Senator Keough's map was the red route map. **Senator Nonini** asked if the routes in red on her map would be granted heavy truck status or was there other criteria. **Mr. Stokes** said that ITD recommends criteria to consider routes, but the Board makes the ultimate decision. They would not recommend a route with a lesser criteria, but they look at other criteria as well. **Senator Nonini** asked if consideration is given to the extra weight, tires, brakes, etc., so that the weight on the roadway is more evenly distributed. He wanted to know what the true message was; he used the following as examples: more or less damage to the roads, and longer or less time to stop. **Mr. Stokes** said that the "bridge formula" is nationally accepted; as load weight increases, load on the axles reduces so there is less pressure on each axle. Damage to pavement is due to weight and the repetitive nature of motion. Reduction in weight on axles does not have a negative effect on roadways. There were no further questions for Mr. Stokes.

For clarification purposes, **Senator Keough** asked the Chairman about the Committee procedure today and if the Committee would vote on the first bill, **S 1064**, before moving on to **S 1117**. **Chairman Brackett** responded that both bills would be presented, then public testimony, and finally the vote on the bills, in the order they were presented. **Senator Keough** asked if that meant people would be testifying on both bills at the same time. **Chairman Brackett** confirmed that testimony on both bills would occur following presentation of both bills.

#### **S 1064**

**Chairman Brackett** welcomed Roy Eiguren to the Committee and asked him to present **S 1064**. **Mr. Eiguren** said he was representing the Right Truck for Idaho Coalition. He said the coalition is made up of 50 members and trade associations; a list of their members is included in the Committee's packets. He said he would present the basics about the bill and then defer the rest of his time to two others, representing Amalgamated Sugar and US Ecology Idaho, who would present observations based on experience with the heavy load truck pilot project.

**Mr. Eiguren** said that for years shippers and the trucking industry have asked the legislature to increase the maximum allowable gross vehicle weights on state highways to provide for more efficient trucks carrying larger loads. In 2003, H 395 established a "pilot project" program to test for a ten-year period specially configured trucks weighing up to 129,000 pounds gross vehicle weight on 35 state highway routes in southern Idaho. These trucks have greater braking capability and more axles, resulting in fewer pounds per square inch per tire. As required in H 395, reports were to be completed at three-year intervals; the final report was presented to the legislature this past January. This final report stated that "ITD did not observe any significant effect on pavements, bridges or roadway safety." In addition, several companies reported substantial economic benefits associated with the pilot project. **Mr. Eiguren** concluded that H 395 contained a "sunset" clause that would end the pilot project program on June 30, 2013. **S 1064** removes the "sunset" clause contained in the original legislation and codifies the 35 pilot project routes in Idaho Code. **Mr. Eiguren** deferred the remainder of his time to his co-presenters: Bryan Whipple, Vice President of Operations/Logistic for Amalgamated Sugar; and Terry Geis, General Manager of US Ecology Idaho. **Chairman Brackett** welcomed both gentlemen to the Committee.

**Mr. Whipple** said he has been with Amalgamated Sugar for 34 years and in their transportation department for the past 29 years. They have plants in Nampa, Twin Falls and Paul, Idaho. The 129,000 pound pilot project has been a success for Amalgamated Sugar. His company added the designated routes to their plant shipments and they were able to move 1.3 million tons more on those routes. Not only did their larger trucks save wear-and-tear on the highways, but they were able to use less diesel fuel. He said that Amalgamated Sugar estimates they have saved \$2.5 million over the ten-year life of the project. There were no questions for Mr. Whipple.

**Mr. Geis** said the US Ecology Idaho facility is located in Grand View, Idaho; 70 miles southeast of Boise. They treat and dispose of hazardous waste, non-hazardous industrial wastes and low-activity radioactive material. They handle intermodal containers by truck or rail, and transfer waste not suitable for land disposal. Seventy-five percent of their material arrives by rail and gets transported by truck. Participating in the heavy truck pilot project has impacted the safety of the roads by reducing the number of trips by 75,000 since 2004. These trucks' larger load capacity has reduced their carbon footprint. US Ecology Idaho estimates that they have had a six percent reduction in the number of truck trips per year, resulting in a cost reduction of about \$80,000 per year. There were no questions for Mr. Geis.

**Mr. Eiguren** closed by stating none of the reports over the ten years of the pilot project, including the final report, have indicated any negative comments about these trucks or the routes they travel on. He encouraged a "do pass" recommendation for **S 1064**. There was no further discussion or questions on **S 1064**.

**S 1117**

**Chairman Brackett** welcomed Jim Riley to the Committee and asked him to present **S 1117**. **Mr. Riley** said he was representing the Idaho Forest Group of Coeur d'Alene. **S 1117** authorizes local highway jurisdictions (the city, county or highway district) to allow higher capacity heavy trucks to travel on roadways the jurisdiction determines can handle the increased loads. **Mr. Riley** applauds the study done by Mr. Eiguren and others of the ten-year pilot project showing the impact these trucks have on roads and highway safety; they can operate and not harm public safety. The study showed that heavier trucks in southern Idaho have brought great economic and cost-saving opportunities for Idaho commerce. It said that properly configured higher capacity trucks can be operated on roads without compromising public safety. **Mr. Riley's** client wants those same opportunities to be available to all regions of Idaho. **S 1117** is an evolution of his previous bill, S 1066, which was in conflict with S 1064. This new bill, **S 1117**, is a companion bill to S 1064.

**Senator Bock** asked what the conflict between S 1066 and **S 1117** was and how it was resolved. **Mr. Riley** said the conflict was more with the way the legislation was put together. It was a comprehensive bill that combined S 1064 and **S 1117**. To avoid conflict, he withdrew S 1066 and redrafted the language to isolate what was not in S 1064, thereby creating **S 1117**.

**Mr. Riley** continued his presentation. **S 1117** goes beyond the pilot routes in S 1064 to allow all Idaho businesses and communities to take advantage of the technology. ITD and all authorized local jurisdictions are given the ability to set standards and criteria that need to be met before a route is designated for 129,000 pound truck loads. Also included is public participation before routes are designated. The Idaho Department of Commerce will be working with ITD once new routes are designated; there are a diverse set of statewide interests. **Mr. Riley** listed the companies and industries that support this legislation. This bill is about opportunities, expansion of businesses and economic growth. **S 1117** allows a fair process for all concerned and gives authority to the experts at ITD. This is an innovative approach that allows the public and private sectors to work together. **Mr. Riley** stood for questions.

**Vice Chairman Johnson** asked Mr. Riley to restate his comment about public notices and meetings on potential new routes. **Mr. Riley** said that the bill establishes a careful process of notification to stakeholders on any newly proposed routes.

**Senator Keough** asked where that was located in the legislation. **Mr. Riley** said that ITD and local jurisdictions are required under paragraph 2 to report to their board and governing bodies. **Senator Keough** asked about ITD establishing engineering criteria and wanted to know what would happen if local jurisdictions disagree with that criteria. **Mr. Riley** said that the entity with jurisdiction over the roadway makes the final decision whether a route qualifies or not. **Senator Keough** referred to line 16 and wanted to know if local jurisdictions had to use ITD criteria. **Mr. Riley** said it was just the opposite; if local jurisdictions decide to designate a route they can, but don't have to, use ITD criteria. **Senator Keough** challenged **S 1117's** fiscal note. **Mr. Riley** said that the Idaho Department of Commerce is specific about only using grant funds for their part in the bill, and ITD is not funded through the state general fund. He suggested that ITD could offer additional insights.

**Chairman Brackett** referred to Joint Rule 18 in the Rules of the Senate and said the fiscal note may have to be adjusted.

**UNANIMOUS  
CONSENT:**

**Senator Keough** said she officially challenged **S 1117's** fiscal note and called for unanimous consent to hold the bill. **Senator Rice** questioned whether a change to a "fiscal note" warranted holding legislation. **Senator Nonini** objected to the request.

**MOTION:**

**Senator Rice** moved that **S 1117's** fiscal note be updated. **Senator Buckner-Webb** seconded the motion. The motion passed by majority **voice vote**. **Senator Nonini** asked to be recorded as voting "nay."

**Senator Winder** stated that the motion does not hinder the presentation and discussion of **S 1117** that was currently before the Committee. **Chairman Brackett** told Mr. Riley that in the event **S 1117** is moved out of Committee, a revised fiscal note would be needed before it would be sent to the Senate floor. There were no further comments or questions for Mr. Riley.

**Senator Winder** said he had a question for Mr. Stokes of ITD. He asked Mr. Stokes what the differences between the soil conditions in northern Idaho and southern Idaho were and if there was more of a problem in the north. **Mr. Stokes** said that he has knowledge of soil variations from his work as an engineer in Coeur d'Alene for eleven years. He said there is a lot of variation in the soil around the state because of the geographical differences. He said that north of Coeur d'Alene the soil is much more sandy. There were no further questions for Mr. Stokes.

**Senator Nonini** saw Jeff Sayer, Idaho's Department of Commerce Director, and Alan Frew, ITD's Motor Vehicles Division Administrator, in the hearing room and asked if they would be willing to respond to an inquiry. They both said they would.

**Senator Nonini** asked Mr. Sayer what the cost to the Idaho Department of Commerce would be if **S 1117** became law. **Mr. Sayer** said the role of the Department of Commerce is to be Idaho's designated champion to lure new industries to the state and to stimulate economic growth. He was not aware his department would require any additional funds or staff to enforce the legislation.

**Senator Keough** referred to lines 28 and 29 and wanted to know if the Department of Commerce had the resources and staff to conduct a study on existing routes in Idaho. **Mr. Sayer** said they do, but the difficult part is determining how expansive such a study would be; certainly they could provide initial support.

**Senator Nonini** asked Mr. Frew if **S 1117** became law would ITD need an increase in their dedicated funds. **Mr. Frew** said ITD knows Idaho roads and no additional funds would be required.

**Senator Keough** asked if ITD could perform an analysis on local roadways or would they gather information from local highway districts, counties and cities. **Mr. Frew** said that ITD would work in conjunction with local jurisdictions who have the authority over roadways; he anticipates that they know their local roadways.

**Senator Hagedorn** asked how ITD provides permits for the large trucks in the pilot project. **Mr. Frew** said they charge an additional \$50 permit fee for the pilot project routes. There would continue to be a fee on those routes for trucks carrying up to 129,000 pounds. He referred the Senator to the fee chart in his packet.

**Senator Buckner-Webb** asked about safety issues with those big trucks on narrow roads during inclement weather. **Mr. Frew** said that in general, the big trucks have considerable experience monitoring extra length combination trailers with their non-reduceable loads. These trucks are long and straight and like long and straight roads. He explained where the longer combination trucks operate. **Senator Buckner-Webb** commented that there is no economic value to off-loading trailers. There were no further questions for Mr. Sayer or Mr. Frew.

**TESTIMONY:**

**Chairman Brackett** reminded those wishing to testify about the rules he had set out at the beginning of the meeting, and began calling people to testify.

The following individuals testified in favor of both **S 1064** and **S 1117**: **Gary Halverson** who is Glanbia Foods' Transportation Manager and **Jeremy Pisca** who represented the Potlatch Corporation and the Idaho Beer and Wine Association.

Only **Dave Carlson** of the American Automobile Association Idaho testified against both bills.

The following individuals testified in favor of **S 1064**: **Dennis Tanikuni** of the Idaho Farm Bureau, **Skip Smyser** who represented the Idaho Trucking Association, and **Stuart Davis** who is the Idaho Association of Highway Districts' Executive Director.

Other than **Mr. Carlson**, no one testified against **S 1064**. **Mike Brassey** who represented Union Pacific Railroad had no position on **S 1064**.

The following individuals testified in favor of **S 1117**: **Matt Van Vleet** of Clearwater Paper in Lewiston, **Jeremy Chou** representing Riley and Associates, **Brent Olmstead** representing the Idaho Milk Producers, **Bernard Toy Smith** of Darigold in Twin Falls and the Northwest Dairy Association, and **Scott Atkison** of the Idaho Forest Group.

The following individuals testified against **S 1117**: **Paul Randy Curlless** who is the Mayor of Dover, **Mike Brassey** who represented Union Pacific Railroad, **Phil Lampert** who is a Benewah County Commissioner, **Bruce Mills** of the Ada County Highway District, **Steve Thomas** of the BNSF Railway Company, **Stuart Davis** who is the Idaho Association of Highway Districts' Executive Director, and **Jerry Deckard** who represented the Associated Logging Contractors.

**Dennis Tanekuni** of the Idaho Farm Bureau and **Skip Smyser**, representing the Idaho Trucking Association, testified they had no position on **S 1117**.

**Vice Chairman Johnson, Senator Buckner-Webb, Senator Bock, Senator Winder, Senator Hagedorn, Senator Nonini** and **Senator Keough** questioned many of those testifying. Their concerns and clarification requests are encompassed in the following inquiries: whether companies would be willing to pay for roadway improvements on designated routes; would designating more routes increase or decrease the number of trucks on the roadways; would companies be willing to pay to retrofit trucks; the location of companies supporting **S 1117**; comments on the fact that Idaho has no north and south interstate system; the sponsorship of the anti-**S 1117** ads in North Idaho; testifiers' position on the "other" bill to which they were not testifying; whether local authorities have the resources and knowledge necessary to designate new routes; whether companies use rail or trucks for hauling and how passage of these bills will affect that; the fiscal impact on local highway districts; and why loggers and lumber companies are not together on these bills.

Following Brent Olmstead's testimony on behalf of the Idaho Milk Producers in favor of **S 1117**, **Senator Keough** read from a letter that the Idaho Milk Producers had written when the pilot program was being considered ten years prior. She quoted from the letter: "...at no time in the future will they seek new routes." **Mr. Olmstead** replied that no milk producers would support new North Idaho routes, but they support the expansion of routes that **S 1117** provides.

**MOTION:**

With testimony concluded, **Chairman Brackett** asked the Committee for a motion on **S 1064**. **Senator Winder** said that the pilot program had been successful and those routes should be permanent. With that said, he moved that **S 1064** be sent to the Senate floor with a **do pass** recommendation. **Senator Bock** seconded the motion. The **Chairman** asked if there was any discussion.

**Senator Hagedorn** asked what the process would be if both bills are passed by the Committee. **Chairman Brackett** said that the bills are not in conflict and actually complement each other.

**Senator Keough** commended the Right Truck for Idaho Coalition for the work they did. Skip Smyser and Roy Eiguren built a coalition and communicated with their members and affected communities. That is the correct right way to develop long-term policy.

With no further questions or comments, **Chairman Brackett** called for a vote. The motion carried by unanimous **voice vote**. **Chairman Brackett** will carry the bill on the Senate floor.

**Chairman Brackett** asked the Committee for a motion on **S 1117**.

**Senator Nonini** had a question for Alan Frew of ITD. He wanted to know if **S 1117** would go through the rulemaking process at ITD if it becomes law. **Mr. Frew** said that ITD has broad rulemaking authority; they can promulgate rules for transportation of vehicles on Idaho's highways.

**MOTION:**

**Senator Nonini** said that, depending on who is testifying, the scales tip back and forth on both sides of the bill; he will support **S 1117**. With that said, **Senator Nonini** moved that **S 1117** be sent to the Senate floor with a **do pass** recommendation. **Vice Chairman Johnson** seconded the motion. **Chairman Brackett** asked if there was any discussion.

**Senator Keough** declared she had a conflict of interest but was planning on voting.

**Senator Rice** said that the opinions shared today were good "lawyering" but the Committee didn't hear from any engineers. When it comes to analysis of routes, ITD engineers are the experts and this bill assigns ITD as support for local jurisdictions.

**Senator Bock** said it concerns him that the Committee heard testimony opposing the bill from North Idaho people; he will oppose the bill.

**Senator Keough** reemphasized the testimony from people who live in North Idaho and have concerns about **S 1117**. ITD and the Department of Commerce come before the legislature and complain about needing more money and more staff, but they want to take on this new responsibility; it sounds contradictory. She concluded by saying there would be conflicts if this bill passes.

**Senator Nonini** said that he has served on the transportation committee in both the House and the Senate. Maybe six or seven years ago he would have opposed this bill because of the problems within ITD, but for the past two years ITD has turned the corner. He has confidence in ITD that they can manage this project.

**Vice Chairman Johnson** supports those comments. This bill gives local jurisdictions the authority to make decisions that will most benefit their communities. He likes the public comment portion of this bill as a way to get input to address local issues. He then revisited the tables dealing with who pays for these roads. It could take up to five years to get the first new route designated. He supports the bill.

With no further discussion or comments, **Chairman Brackett** called for a **roll call vote** on the motion. The motion carried by a vote of five "aye" votes (**Chairman Brackett, Vice Chairman Johnson, Senator Rice, Senator Nonini** and **Senator Hagedorn**) and four "nay" votes (**Senator Keough, Senator Winder, Senator Bock** and **Senator Buckner-Webb**). **Chairman Brackett** will carry the bill on the Senate floor.

**ADJOURNED:**

**Chairman Brackett** thanked the Committee and everyone in the audience. With no further business before the Committee, **Chairman Brackett** adjourned the meeting at 4:15 p.m.

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Senator Brackett  
Chairman

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Gaye Bennett  
Secretary